S. HRG. 106–935

CONSERVATION AND REINVESTMENT ACT

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

ON

S. 25, THE CONSERVATION AND REINVESTMENT ACT OF 1999
S. 2123, THE CONSERVATION AND REINVESTMENT ACT OF 1999
S. 2181, THE CONSERVATION AND STEWARDSHIP ACT, TO AUTHORIZE FUNDING FOR A VARIETY OF CONSERVATION PROGRAMS

MAY 24, 2000

Printed for the use of the Committee on Environment and Public Works

U.S. GOVERNMENT PRINTING OFFICE
68–424 CC WASHINGTON : 2001

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED SIXTH CONGRESS, SECOND SESSION

BOB SMITH, New Hampshire, *Chairman*

JOHN W. WARNER, Virginia
JAMES M. INHOFE, Oklahoma
CRAIG THOMAS, Wyoming
CHRISTOPHER S. BOND, Missouri
GEORGE V. VOINOVICH, Ohio
MICHAEL D. CRAPO, Idaho
ROBERT F. BENNETT, Utah
KAY BAILEY HUTCHISON, Texas
LINCOLN CHAFEE, Rhode Island

MAX BAUCUS, Montana
DANIEL PATRICK MOYNIHAN, New York
FRANK R. LAUTENBERG, New Jersey
HARRY REID, Nevada
BOB GRAHAM, Florida
JOSEPH I. LIEBERMAN, Connecticut
BARBARA BOXER, California
RON WYDEN, Oregon

DAVE CONOVER, *Staff Director*
TOM SLITER, *Minority Staff Director*

C O N T E N T S

ADDITIONAL MATERIAL

CONSERVATION AND REINVESTMENT ACT

WEDNESDAY, MAY 24, 2000

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 9:37 a.m. in room 406, Dirksen Senate Office Building, Hon. Bob Smith (chairman of the committee) presiding.

Present: Senators Smith, Baucus, Boxer, Chafee, Reid, Inhofe, Lautenberg, Bennett, Graham, Lieberman, and Crapo.

OPENING STATEMENT OF HON. BOB SMITH, U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE

Senator SMITH. The committee will come to order. We have a lengthy hearing this morning with several Members of Congress and Senators who have asked to testify. I have done my best to accommodate everyone. Hopefully, the House members will be here shortly. I understand the House of Representatives has a vote at 10.

So with that in mind, I am going to ask Senators to withhold opening statements at least until that time that the members have had a chance to make their statements.

Senator BAUCUS. Mr. Chairman, I would like to say a couple of words, first. It is very, very brief. We all have schedules to meet and attend. With your permission, I have just a couple of words.

Senator SMITH. Well, the only thing is, if we let one Senator do it, we have got to let them all do it.

Senator BAUCUS. Well, there are only three or four here. How about if you hold us to 1 minute?

Senator SMITH. All right, go ahead.

Senator BAUCUS. I appreciate it, Mr. Chairman.

Senator SMITH. I just want to give mine afterwards.

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. I just want to thank everyone here who has worked so hard in leadership positions to bring these bills forward.

Senator Landrieu has been probably one of the hardest working to get this issue moving, hopefully past this Congress. Over in the House, of course, it is Congressman Miller and Congressman Young. I very much thank them. Senator Bingaman has introduced a bill that I have cosponsored.

I just want to publicly acknowledge and thank all of you who have worked so very, very hard, because I think we have a good opportunity this year to enact this measure.

Thank you, Mr. Chairman.

Senator SMITH. Senator Chafee, you had indicated to me that you had to go at 10 anyway to preside. If you would like to make some brief remarks here, I will permit that.

Senator CHAFEE. I will hold off and give my opening statement when I come back at 11. That might work out better for everybody.

Senator SMITH. Is there anyone on this side?

OPENING STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator BOXER. Mr. Chairman, I just would ask for 30 seconds, and I will give my full statement later.

I wanted everyone to know that I introduced the House passed bill, and it is sitting at the desk at the Senate. I think it is important, because if we can not see a bill come out, it makes it easier, from a parliamentary sense, to have the House bill at the desk.

So the actual House bill went to the committee, but I introduced the House bill, word for word, even though I am with Senator Baucus and Bingaman on Senator Bingaman's language.

I also want to say that it is terrific to see this all coming together, 4,000 organizations. I introduced the original bill, which was different from the Carr bill with Congressman Miller. Then he left me for Congressman Young.

[Laughter.]

Senator BOXER. I am a little hurt, but I think they did a good job. That is where we are at this point. I want to thank you for holding this hearing.

Senator SMITH. Would anyone else like to make a brief remark?

[No response.]

Senator SMITH. We will come back to Senators for more elaboration on the opening remarks in a little while.

This hearing this morning is to basically hear comment on three bills: the S. 25, which is the bill introduced by Senator Landrieu and Murkowski; S. 2123, also by Landrieu and Murkowski; and S. 2181, by Senator Bingaman.

Do you have one in there, too, Senator Cochran? Did I miss one?

Senator COCHRAN. I am co-sponsoring the Landrieu bill.

Senator SMITH. So at this point, let me start with you, Senator Landrieu. Of course, your statement will be made part of the record.

STATEMENT OF HON. MARY LANDRIEU, U.S. SENATOR FROM THE STATE OF LOUISIANA

Senator LANDRIEU. Thank you, Mr. Chairman. Let me begin by thanking you and the Ranking Member for holding this hearing this morning and for all of the interest that all of your members have expressed on this subject.

It is going to take great work by this committee, as well as the Energy and Natural Resources Committee, and by every member of the Senate to move such a significant piece of legislation through, and to really work at it from many different angles. So

I really appreciate your committee, with all that you have to do, giving time on this subject this morning.

I am going to be relatively brief. As you all know, I could talk hours about this subject, and I have. But I will be brief, because I have got another committee, and I have got an able partner here.

But let me just recognize Congressman Tauzin, who I understand is here, to thank him for his great work in shepherding this initiative through the House. As he will testify later, and I sure you all know, there were over 315 members of the House, both Republicans and Democrats, who have led this bill to a great victory in the House.

Now it is before the Senate. It has tremendous bipartisan support here. So I think while we are not there yet, we are clearly toward the end of this journey of having a bill that will be a great conservation legacy for our Nation.

The President has indicated tremendous support for this effort for the very beginning. I have every confidence that when this bill is laid on his desk, something similar to what came out of the House, that he will sign it, and it will be a great victory for Congress and for this Administration.

CARA, which I want to speak about this morning, and I thank you, Mr. Chairman, for your co-sponsorship of that, rests on a couple of very simple principles.

One, we believe that CARA legislation lays down the principle of a fiscal responsibility; that there is a source of funding coming from offshore oil and gas revenues, that actually would be better spent if they were directed in this way, as opposed to the general fund of the Federal Treasury.

That is because this is not a regular tax. This is not a tax that is going to go on indefinitely or forever. This is a tax on a finite resource, and that resource is oil and gas revenues, primarily off of our coast and primarily off the coast of Louisiana, Texas, Mississippi, and the Gulf Coast.

Just to share some numbers with you all that I hope will impress you and I hope that you can keep, since 1950, the Federal Government has taken $120 billion from that source in taxes. Basically, it has gone directly into the general fund.

As Senator Feinstein said so eloquently in a press conference on this subject, she said, in fact, these funds were hijacked 30 years ago, because initially, these funds were supposed to, or at least a portion of them, come back to fully fund the land and water conservation fund, both the Federal side and the State side, and to invest in our environment.

In fact, they never really have. It has been a hit and miss situation, with more misses than hits. So CARA rests on the principle that it really is more fiscally responsible, if you are going to generate a tax from a finite resource, let us take a portion of those revenues and invest them back in the environment. That is what CARA does.

It also says in the CARA principles that many of us came together on that environmental protection is more than just rules and regulations. It is more than Federal land acquisition. Really, this legacy that we are trying to create is about good plans, good partnerships, and having financial resources to make this real; the

partnerships being at the Federal and State level; good plans being made at the Federal and State level.

But all the great plans and all the great partnerships in the world are not worth very much if there is not money to support them.

So CARA recognizes this special source of revenue. It recognizes the fact that all the good plans and partnerships in the world, of which many of you on this committee and I have also helped to create, are not worth the paper that they are written on, if there is not actual money to fund them.

So this money should go back to fund a variety of programs that reinvest in a fiscally responsible way, and provide the money, if you will, to make these plans real.

So the way the CARA bill has been developed and has come now is identifying resources for coastal States; $1 billion of the $2.8 billion for coastal impact assistance and conservation; $900 million to fully fund the land and water conservation fund; $350 million for wildlife conservation, which is a particular interest to this committee; $125 million for urban parks to fully fund historic preservation; $250 million for conservation easements; and $200 million set aside for capital improvements for the land we already own.

Let me make just one point. In the Senate, this is an issue of contention. Should we just go out and buy additional land; should not we have some responsibility to care for the land we already own?

So CARA recognizes that. It both enables us to purchase land for willing sellers when Congress approves for additional land, but it also invests money in improving the lands that we already own, and for the western States, particularly, it helps recognize by fully funding PILT. Senator, you and I have talked about this, although you do not represent a western State. It fully funds PILT, payment in lieu of taxes, which is an important provision.

So the bill is balanced. It helps all areas of the Nation. It does not just try to help producing States or non-producing States or interior and coastal.

I think that is why, Mr. Chairman, in conclusion, let me say that this bill, of all the bills on the subject, has the most support and the most bipartisan support, because it really has, from its very beginning, wanted to be fair to every part of this Nation, the northeast corridor, the great lakes, the south, the west. It is very balanced in its approach, fiscally conservative, and recognizes the real opportunity.

Let me just close by saying that some members have criticized the fact that there are some producing States, like Louisiana, that might get a large amount of this money. Because the source of this money is produced almost 80 percent, basically, off the coast of Louisiana, our State serves as the platform for this oil and gas industry.

We are happy to do so. We think we can do so in an environmentally sensitive way. Some States have chosen other ways, or not to do production at all. That is fine.

But since our State serves as that platform, in Mississippi and Texas, we feel that any bill that would come out of this Congress should most certainly recognize that, that we produce 100 percent

of the money. We are not asking for 100 percent. In fact, CARA asks for less than 12 percent of these dollars to come back to the Gulf Coast States.

We think that is quite generous and quite fair, so that this money can be spread around the Nation in ways that will make a great legacy.

My final point is this. If we do not do this now, Mr. Chairman, when we are running a surplus, and when we can think in the beginning of this new century, what should we do to make sure that these surpluses are not just spent frivolously, or not just allocated in ways that do not make much sense to our future?

Here is a perfect opportunity to take a small portion of this money, which would be less than, I think, one half of 1 percent of the total Federal budget, redirect it in ways that it was supposed to, 30 years ago, and let us create a great legacy for this Nation, for land acquisition, land improvement, land conservation, working with landowners, respecting the rights of private property owners, helping our coastal and interior States, and protecting wildlife.

We could not think of a better way to start this new century. We thank this committee for the interest they have and look forward to working with you to get a good bill out that we can all be proud of.

Thank you, Mr. Chairman.

Senator SMITH. Well, thank you very much, Senator Landrieu, and thank you for your leadership on this issue.

Senator Cochran, last night on the "Millionaire" I think you probably would have been able to answer the $64,000 question, which was, what current famous popular author was a member of the Mississippi State Legislature.

[Laughter.]

Senator SMITH. One of the answers was John Grisham. That was the right answer. I knew it, and the guy did not know it.

Senator COCHRAN. Oh, really?

Senator SMITH. No, he did not, but I did not get any money out of it.

[Laughter.]

Senator SMITH. Senator Cochran, welcome.

STATEMENT OF HON. THAD COCHRAN, U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Senator COCHRAN. Thank you, Mr. Chairman. I appreciate you inviting me to testify at this hearing.

The Federal Government has, for too long and too often, used outer continental shelf revenues for big, high profile projects, and has virtually left out States like Mississippi.

We have smaller projects, and our needs are not nearly as great as some of the larger States. Yet, they are very real and very important to the people who live in Mississippi.

This legislation will shift more of the money that comes from these resources to States like Mississippi. We have environmental organizations and State agencies that are trying hard to protect fragile wetlands and fisheries resources. We are restoring the habitat of the osprey and the eagle.

Great progress is being made on these and other similar initiatives. But we need the extra money that this bill will provide to provide to enable our State to do the job right.

For many years, we have sought additional funding for the State-side portion of the land and water conservation fund, which provides Federal funding for State initiatives for the protection of valuable natural resources and fish and wildlife habitat.

Our bill provides full funding for the State's share, while still providing for Federal programs, coastal conservation and impact assistance, wildlife conservation and education programs, and historic preservation.

I am glad to be a co-sponsor of this legislation. I hope this committee will recommend its approval by the Senate.

Senator SMITH. Thank you, Senator Cochran. Does anyone wish to ask either Senator a question, at this point?

Senator INHOFE. What is the order, here?

Senator SMITH. Well, we are ready to move up to the House members.

Senator INHOFE. OK.

Senator LANDRIEU. If there are no questions, can I just turn in, for the record, the list of 4,576 organizations and businesses that have supported the CARA legislation, and represent a grand coalition from business to environmental leaders, Governors and mayors, and other elected leaders from around the Nation that support our efforts, Mr. Chairman.

I am sure you will hear from some of the representatives of some of these groups. But for the record, I would like to turn it in and thank them for their great work, and for coming together, across party lines and across ideological lines to create a bill that we can all be proud of and one that will truly help our Nation.

Senator SMITH. Without objection, that will be made part of the record.

[The referenced document follows:]

Senator SMITH. I would now call up the House members who had indicated they wished to testify: the Honorable Don Young of Alaska, the Honorable George Miller of California, the Honorable Helen Chenoweth-Hage of Idaho, the Honorable John Shadegg of Arizona, the Honorable Billy Tauzin of Louisiana. Any and all of those ladies and gentlemen who are here, if they would come up.

We will start with you, Congressman Tauzin. Welcome, and your entire statement will be made part of the record. Please feel free to summarize it in any way you wish.

STATEMENT OF HON. BILLY TAUZIN, U.S. REPRESENTATIVE FROM THE STATE OF LOUISIANA

Mr. TAUZIN. Thank you, Mr. Chairman.

What I thought I would do is give you a quick backdrop to this legislation, which is already, as you know, passed the House, 315 to 102. So if the House were properly represented here, I guess it would be three to one in favor of the bill, but I wanted to give you the backdrop to it.

It all began with the 1998 memorandum, a report from the Department of Interior's Minerals Management Services Agency

which recommended, based upon a request from Congress, an appropriate sharing formula for off-shore revenues.

Interior States currently share in the revenues produced on Federal lands within those States. The Federal law actually provides a 50 percent share to the States where interior development occurs.

For example, the State of New Mexico received $5.3 billion over the years in its 50 percent share. The State of Wyoming has actually received $7.4 billion over the years, as its 50 percent share of Federal oil, gas, and mineral revenue derived from Interior Federal lands.

No such provision was ever made for the coastal States, who have Federal lands from which oil and gas and other minerals are derived, and for which major impacts are felt.

I want you to know, in our State of Louisiana, a little bit about the impacts. Since 1930, we have lost over a million acres of State coastal lands, much of it, as Mary pointed out to you, because of the fact that we have accommodated, as a launch pad, the development of oil and gas off those fragile wetlands.

We also produced 29 percent of the Nation's seafood harvest from those same wetlands. It was a pretty critical thing to be losing them.

We lost, since the 1930's, an area of land equal to the size of Rhode Island. Within the next 10 years, we are going to lose enough land equal to the city of San Diego. We have got no program in place to try to prevent or stop that immense national and, I think, international ecological disaster that is occurring in Louisiana.

Sharing the revenues from oil and gas production is one of the ways that Minerals Management suggested we do it. Now Minerals Management, as Mary pointed out, did not say, look, just share it with the State that produces most of it. It said, share it with all the coastal States.

So a portion of the moneys in the first title of this bill are shared with all the coastal States; 35 different States share. Louisiana and Texas, obviously, with the most production, end up with a large number.

But, again, the impacts are immense, where the production is occurring. We produced 80 percent of that production, which is yielded, as Mary said, $120 billion to the U.S. Treasury, since it all started offshore in 1948. So the first part of the bill is a sharing formula.

The second part is the land and water acquisition fund, and the other great programs in the bill that are really a great environmental legacy, that I think our generation leaves to the next and, frankly, I think, makes this an incredibly well balanced bill.

I want to talk to you about that balance, briefly. The bill was an intricately negotiated package, because it involves the concept of environmental protection and land acquisition and species protection. It was necessary that we negotiate carefully to balance property rights into the package.

There is still a dispute over what is and what is not in this package regarding property rights. So I thought if you would give me a second, I would run through how this thing works.

This is what an agency, wanting to acquire land, must do in this bill. It must first seek to consolidate the checkerboard pattern of Federal landholdings out west. That is its first obligation, to consolidate, so that there are fewer inholdings and, therefore, fewer restrictions on the owners of those inholdings.

It must second, as a second priority, consider use of equal value land exchanges, so that in States with very large percentages of Federal landholdings, land exchanges can be used to acquire the properties that the Government prefers in its land packages.

Third, it must use permanent conservation easements as an alternative, so that farmers and ranchers can grant easements, instead of outright sales of their property in this program.

Fourth, it must prepare a list each year for Congress, identifying the lands that have been singled out as surplus lands that could be eligible for disposal. That has never been done before. Every year, we would get a list of Federal lands that the Government thinks it can dispose of, as it acquires other more desirable lands for the Nation's benefit.

Fifth, it must site the statutory authority under which an acquisition is occurring, and explain why the track was proposed to be acquired, and notify everybody, all the Members of Congress, the Senators, the local governments, the land management folks, the city, town, village, county, and State officials in the area. Nothing, anymore, will be done by surprise. Everybody gets notice.

No moneys could be used to acquire the land until all Federal review requirements, for example, like NEPA, are complete, and all environmental impact statements are done. So the Government is required, Mr. Chairman, to do exactly what private landowners have to do. It has got to do all the environmental reports and NEPA studies.

Then it has to submit in a budget request to Congress a list identifying each track of land. The Administration must say which track of land is available from a willing seller, and which they want to acquire from an unwilling seller.

It can not acquire it from an unwilling seller unless something very specific happens here in Congress. In other words, all sales are from willing sellers unless we act in a very specific way to acquire land from someone who does not want to sell. Congress has to act again. This is how that happens

The acquisition of land from an unwilling seller must, first of all, be authorized by Congress. Congress must authorize and effect each condemnation, and it must authorize it in a corresponding appropriations bill and a funding bill. It must identify, in fact, each parcel of land acquired in such a fashion in the bill; not in the report language, but in the bill where we can all see it.

The bill specifies that under the Fifth Amendment, compensation must be paid for any takings that occur. It specifies that nothing in this act creates any new Federal authority over lands not yet acquired, whether they are inside a boundary or outside a boundary. Even though they are proposed for acquisition, until they are actually acquired by the Government, there are no property rights, no restrictions on use of the property.

As Mary mentioned to you, it provides a mechanism for the full funding of PILT, which is critical. The bill is designed also to ad-

dress the $12 billion backlog in in-holders, who want to sell their in-holding properties to the Government. And it again provides that it must be done from willing sellers. Finally, it provides $200 million annually for the maintenance of Federal and Indian lands.

Mr. Chairman, this is a huge package of property rights gains for folks in this country, when it comes to Federal acquisition. Current law does not have a willing Seller provision. It does not have all this notice. It does not have all the provisions I mentioned to you.

These are all new gains for property rights, for property owners in America, under the Fifth Amendment, as we balance off their rights with this huge program, to make sure that the Government has the capacity in the Land and Water Acquisition Fund to continue acquiring for the benefit of future generations the properties that are critical in that acquisition program.

It is a delicately balanced package, but it is an awfully good one. When the House votes for a bill three to one, you have got to figure, with Republicans and Democrats joining forces in the middle of an election year, there has got to be an awful lot of good in here.

Thank you, Mr. Chairman.

Senator SMITH. Thank you very much, Congressman Tauzin.

It is nice to see you, Congressman Chenoweth-Hage. Welcome, and we look forward to your testimony.

STATEMENT OF HON. HELEN CHENOWETH-HAGE, U.S. REPRESENTATIVE FROM THE STATE OF IDAHO

Ms. CHENOWETH-HAGE. Thank you, Senator Smith. I want to thank you very much for holding this hearing today, and allowing me to testify before your committee on the Conservation and Reinvestment Act.

Mr. Chairman, I am fully aware of the support that has been amassed for CARA. But I strongly urge this committee and the Senate, in its deliberative nature, to pull the reins in on this very fast moving wagon, and to take a very long and hard look at what we are doing to America.

This bill establishes a $40 billion mandatory fund over the next $15 years, billions of which will be given to the Federal Government and States, or tribes, or non-governmental organizations, non-profit organizations to purchase private property, forever taking lands out of the production and off the tax roles.

Billions more will be at the control of the Secretary of Interior to fund everything under the sun, with little oversight by Congress; everything under the sun, including the listing of non-game species.

Now if we think we have a headache with the Endangered Species Act and the listing of Endangered Species, wait until the Federal and State government partnership up in managing non-game species.

This bill also establishes a permanent revenue source for non-governmental organizations to carry out their purposes; these same governmental organizations that have been active in political campaigns, too.

Mr. Chairman, I only have a few minutes to speak on this issue. So I will cut to what I believe are the real central issues that Congress must consider in this legislation.

First, while CARA is being established under the guise of environment and conservation protection, its true premise has more to do with who will own and control property and the use of property in the United States of America.

When did we conclude that Government can manage the land more responsibly and efficiently than the private property owner; and when did we decide that it was the duty of the Government to consume and govern the use of private property?

The truth is that a private property owner categorically does a better job of utilizing and conserving private property than does government.

Government, by its very nature, is inefficient. When it comes to managing the land and water, one only needs to look at the recent debacle created by the Federal Government in the fires in New Mexico, and the $12 billion in maintenance and repairs in the National Park Service facilities, and the woeful state of our national forests, to prove this point that I am making.

We need to invest money in the backlog of maintenance, and ask the Government to take care of the land that it already has.

Second, Mr. Chairman, what we must look at is what kinds of precedents CARA will set in terms of additional mandatory trust funds, taken from the general revenue streams; consider what it will do to our fiscal priorities, such as paying down the national debt, shoring up Social Security, building up our national defenses, and providing needed tax relief. Every dollar set aside for CARA is a dollar taken away from these priorities.

In fact, Mr. Chairman, when presented with the facts, other national priorities far outweigh CARA. In a recent national poll, by a margin of 72 to 13 percent, Americans rejected spending for CARA, when told that it will shift funds away from Social Security and debt reduction.

Moreover, Americans on an eight to one margin said that we should address our maintenance needs first, before acquiring more lands. Finally, on a list of priorities, only 1 percent of Americans picked land acquisition as our most important priority.

Mr. Chairman, I want to let the committee know that I have studied every single provision and every single word in this legislation, and have carefully considered how it will be interpreted.

There is so much more to say. I hope that the members of this committee will probe into this issue with their questions.

Mr. Chairman, there are a couple of things that I do want to address. One is the PILT payments. This bill does provide a provision for PILT payments. But the revenue for the PILT payments would be from interest acquired from money that the Secretary of Interior did not spend on a yearly basis.

So in all reality, how many agencies of Government or how many Secretaries really have a lot of money left over in their accounts to acquire interest?

Second, in the PILT payments, there is a provision in the bill that said the first priority must go to the National Wetlands Conservation Plan. That will be the first priority for those interest moneys that would be generated. It would not be to PILT.

So second, I would like to address the protection of private properties that has been addressed here. Mr. Chairman, it does say

that property should be acquired under the constitutional provisions. But there is a parenthetical clause that is often left out in the debate for the private property protections.

That parenthetical clause in this bill states, "unless under some other provision of law." So property can be acquired under another provision of law using moneys from CARA.

The willing buyer/willing seller issue really is a very tragic situation in America. Because when the Government is the only buyer, you know, the seller is at the mercy of the Federal Government.

Finally, I would like to say that in Title 7 of the Farmland Protection Program, it clearly states in here that the Secretary will provide matching grants to eligible entities. Now that can be anybody, by definition; anyone involved in conservation.

I am reading from the bill. "We will provide to eligible entities these grants described in Section D to facilitate the purchase of either permanent conservation easements, or other interests in lands, when the lands are subject to a pending offer from a State or local government."

They are primarily concerned about the conversion of cropland to less intensive uses than farming the cropland. So the last thing we need, Mr. Chairman, is to see our scarce farmland taken out of agricultural use.

There is so much I would like to share with you about this. But I hear the bells going off, and I thank you very much.

Senator SMITH. Let me just say, there is about, I think, 6 or 7 minutes left on approval of the journal vote, if you are interested. That is just as a courtesy, in case you want to go.

Senator Inhofe has indicated that he had a question for you, Congress Tauzin.

Senator INHOFE. Yes, I only have one question, if it is all right with the committee to pose that, in case they have to run off and approval the journal. For those on this panel who have not served on the House, they do not know what we are talking about.

But my question is a very serious one, and I ask it of my friend, Billy Tauzin, because he and I, when he was a Democrat and I was a House member, he was my Chairman on the Merchant Marine and Fisheries Committee. We always got along famously, until now.

Senator BOXER. Now that he is a Republican, you mean?

[Laughter.]

Mr. TAUZIN. They called me a "Transvesti-crat" at one point or the other.

[Laughter.]

Senator INHOFE. I would like to ask a question that I think is rather serious, and I would like to have you give me a very serious answer, as you always do. It is a simple question.

I represent Oklahoma, and you represent Louisiana. Under the distribution assist, Louisiana would get annually the distribution of $311,660,000 and Oklahoma would get $16,699,000.

My question is this, if I were representing Louisiana instead of Oklahoma, I would enthusiastically support this bill. If you were representing Oklahoma and I were representing Louisiana, would you endorse and enthusiastically support this bill as much as you are now?

Mr. TAUZIN. Yes, sir, just as Louisiana supported the bill that allows Oklahoma a 50 percent share of all oil and gas revenues produced in Federal lands in Oklahoma, which you have been enjoying since the beginning of oil and gas production.

You are getting $16 million with no coastline. You do not have any offshore lands. You are getting what we call in Cajun Country, "lonopsha." You are getting money that you did not earn, because you do not have offshore lands.

The reason you are getting it is because we agree with the Mineral Management Program, that it ought to be shared with States across America, and not just with the coastal production States.

So let me say it again. I know my good friend Helen Chenoweth-Hage has made the case that this is money that will not go to certain areas.

No one is arguing that we ought to repeal the statute that is providing Oklahomans with 50 percent of the oil, gas, royalties and payments and leases and bonuses from Federal lands located in Oklahoma. You get that every year. Louisiana voted for that and supports that.

We are simply saying, fair is fair. We have Federal lands, too, in Louisiana, right off of our coast, but we do not get a dime from it. We have all those impacts, just as you, in Oklahoma, have impacts from the Federal lands located in your State, Senator.

So fair is fair; in fact, you are being treated more than fairly, because you are getting some of our offshore production; $16 million more. I have looked at a map recently, and I do not remember Oklahoma having a coastline on the Gulf of Mexico. So I think it is an abundant fairness that we are sharing with all of the States, part of these revenues.

Senator INHOFE. Well, I would only respond by saying, less than 5 percent of the land in Oklahoma is in the Federal category.

Mr. TAUZIN. Well, you are lucky. How would you like to be in Helen's State? How much is that, Helen?

Ms. CHENOWETH-HAGE. It is 70 percent.

Mr. TAUZIN. That is 70 percent, but she collects $7.4 billion in that 50 percent share, over those years. It is an amazing contribution from the Federal Treasury to their State, because of the amazing land ownership in their State.

Ms. CHENOWETH-HAGE. We would be happy to give it back.

Mr. TAUZIN. I know you would not give it back.

[Laughter.]

Mr. TAUZIN. All we are saying is, fair is fair. Let us have some sharing.

Senator BENNETT. Excuse me, Mr. Chairman, but the Federal Government owns two-thirds of the State of Utah. We would be delighted to have them give us that ownership and let us develop the land.

I mean, come on, let us not misrepresent what Federal ownership is. It is not a great burden and a green bonanza and a great boon.

Mr. TAUZIN. Senator, I do not argue that. If I were representing a State where the Government owned 70 percent of my State, I would probably be sitting with Helen, complaining about it.

I probably would have tried to get in this bill at least a no-net gain, which I think Montana got in negotiations on the House Floor.

Yes, I do not like the idea of the Government owning so much property in our States. I really do not. I think that is why we have set as a priority, land swapping and consolidation of checkerboard land patterns.

All I am saying is that where the Federal Government does own land in the interior States, and does have mineral production, the law gives you 50 percent of it. We are not sharing 50 percent of the offshore. It is not anywhere close to that. Mary had the number, 12 percent.

Senator BENNETT. Give me mineral production and I will be with you.

Mr. TAUZIN. Oh, of course.

Senator SMITH. Senator Boxer?

Senator BOXER. Mr. Chairman, I just wanted to put into the record a poll that was done by the Luntz Research Companies. I think he is pretty much a Republican consultant.

Mr. TAUZIN. Very much so.

Senator BOXER. He is very much a Republican consultant.

It is very fascinating about people's views on this, and even in the west. These are his words. "The not-so-wild west; the myth of too much public land does not hold, even in the western States." This is your Frank Luntz.

The argument that "there is already too much public land" ranks fourth among four, in testing the most compelling negative arguments against this bill, with only 12 percent finding it most persuasive. The western mountain States residents vary only within the margin of error.

I just find it very interesting that there is so much support across the country for this bill. Now I just want to maybe make the bill a little more exciting to my colleagues who do not like it.

I think it goes too far. I mean, Billy, I think you have changed the private property rights to the point where, you know, I have some problems with it and Senator Bingaman has some problems with it.

So I just want to make sure everyone understands that there are those of us on the other side. What they did over there in the House, I think, is a tremendous job of trying to deal with those people straight down the middle and say, those people who have the concerns added a lot of provisions here which, I think Representative Tauzin is very much responsible for.

So I want to put this in the record, though, because I think it is very important.

Senator INHOFE. Senator, let us reserve the right to object.

Senator BOXER. To putting this in the record?

Senator INHOFE. Yes, I am reserving the right. I would like to have you amend your request to have that poll, following by a poll that was taken by this month by the Vox-somebody Communications.

Anyway, one of the questions was, in your opinion, do you think that the Federal Government should address maintenance needs first, or should it continue to purchase more land and create new

parks? Eighty percent said to take care of maintenance first. So can have both of these polls in the record.

Senator BOXER. Sure, well, let the record show that I am putting in the Luntz poll and you are putting in the whatever it is.

[Laughter.]

Senator SMITH. Without objection, both polls will be placed in the record.

[The referenced documents follow:]

Senator BENNETT. Does that mean it is a tie?

[Laughter.]

Mr. TAUZIN. Senator, I would like to elaborate just a second on what you said. I do not know if you noticed, but the two furthest extreme positions on this bill, one represented by the National Defense Fund, the Sierra Club, and Green Peace; and the other represented by the most vocal of the property rights groups out west, both oppose the bill.

But an awful lot of environmental people are supporting it, and an awful lot of property rights people are supporting it. It is not going to please the very ends of the spectrum.

But try to pass a bill through here that does. It is artfully balanced, and that is the best that we can do. I think if you can improve on it, with more property rights, sir, I would love you to do so.

If you can not, because Barbara will not let you, I understand. We have the same problem in the House.

Senator BOXER. They have never paid attention to me before, anyway. Do not worry about that.

[Laughter.]

Senator INHOFE. For clarification, is that true? I was not aware that the Sierra Club, Green Peace, and all that were in opposition to this bill.

Mr. TAUZIN. Yes, that is right.

Senator BOXER. Yes, it is true.

Mr. TAUZIN. That ought to give you some comfort, Senator.

[Laughter.]

Senator INHOFE. Well, you know, maybe my ratings will go up.

[Laughter.]

Senator SMITH. I am told there are at least maybe one or two other Congressmen coming. We are going to have to shut this down soon, to go to other witnesses. But I know Senator Crapo came in late, and Senator Lautenberg. Do either of you have a question of either of these witnesses?

Senator CRAPO. Mr. Chairman, I think Frank was here first.

Senator LAUTENBERG. Mr. Chairman, I have a statement, which I would like to enter into the record. I have no questions for them. I look forward to hearing from the panel.

Senator SMITH. Your statement will be made part of the record.

Senator SMITH. Senator Crapo?

Senator CRAPO. Mr. Chairman, if I could enter my statement as a part of the record, I would just ask one question of Representative Chenoweth.

Representative Chenoweth, one of the big issues out in Idaho is the financial impact on the counties. I was not here, and I am sorry, I was not able to get here on time because we had a press

conference with Taiwan, who was just announcing a big purchase of wheat from Idaho, so I apologize that I missed your testimony. But I have reviewed it and, of course, am very familiar with your positions.

I wondered if you could explain to us a little bit more about the impact that we were concerned about with regard to the PILT funding, and the financial impact on the counties that this bill could cause.

Senator CHENOWETH-HAGE. Well, Senator, the bill ostensibly deals with PILT, but not really. PILT funds would be generated only from interest accumulated from money left over that had not been expended by the Secretary each year.

Now what Secretary has a lot of money left in his fund to generate interest? It just does not happen; not in this town. So the PILT funds really will not be there in the manner that they have been promised.

Second, there is a priority in the bill that the PILT money or the interest money would go to the Wetlands Conservation Plan first, and then to PILT. But the bottom line is, the revenue stream would only be from interest accumulated.

So with the large amount of Federal lands in Idaho and most of our western States, the impact of the accumulation of more land under Federal control and the shrinking of the tax base in our counties that are already on their knees is very, very devastating.

As you know, Senator, in our State, some of our schools are only holding classes 4 days a week, because they can not afford to stay open 5 days a week. That is how bad off some of our counties are, and this would further harm them, and harm schools and necessary services.

Senator CRAPO. Thank you very much.

Mr. TAUZIN. Senator, if I can, let me give you the mechanism by which it works. The bill provides that as the moneys accumulate in the Treasury and with the Secretary, all this money that will be used for acquisition, they are going to be investing in interest. It will earn substantial interest.

The bill provides that that money is then used as a match to the appropriated funds for PILT. We annually appropriate to PILT, but we only appropriate about 50 percent, as you know. We have not done our job, frankly, in Congress in fully funding PILT over the years.

This bill would provide a 50 percent match to the appropriated funds of the Congress. So, hopefully, if the Congress appropriates again at its 50 percent level or better, we will fully fund that.

Senator CRAPO. Billy, what would stop Congress from then simply saying, well, we see what is available in the fund, so we will just reduce what we are going to appropriate, so we have what we have.

Mr. TAUZIN. If Congress does not appropriate, there is no match.

Senator CRAPO. But if they could calculate that mathematically and say, well, this is the amount we would have appropriated, and we have got this money over here, so we will mathematically adjust that, and end up where we would be.

Mr. TAUZIN. "They" is us. We could do that.

Senator CRAPO. Well, that is right. That is one of my concerns, that we have been fighting the PILT battle for a long time, and it is a big issue.

Mr. TAUZIN. I understand, Senator. What I am saying is, we provided a mechanism that if Congress will continue to fund at least 50 percent of PILT, the other 50 percent is matched. It is our hope, our intent that Congress continues to do that.

I will support you, and we will all support you in the efforts to ensure that the appropriations bills continue to appropriate at least that percentage. That gets you to approximate full funding, which is what we all want.

Senator CRAPO. Well, I appreciate your support. I know that you have been a strong advocate on that. But you can see the concern that I have with a Congress that wants to save money, which this Congress wants to do. They could mathematically simply adjust the appropriation to take advantage of the fund without increasing the PILT funding.

Thank you, Mr. Chairman.

Senator SMITH. Does anyone else have a question?

Go ahead, Senator Bennett.

Senator BENNETT. I have just a quick comment. I would appreciate a response.

I suppose I am tainted by the fact that I am an appropriator, along with Senator Lautenberg and, for awhile, Senator Boxer. But she found religion and move on someplace else.

[Laughter.]

Senator BENNETT. I am troubled with the idea of setting up yet another trust fund with a dedicated source of revenue for that trust fund.

That trend throughout the government, after a while, bothers me, because if we end up with a Government of a series of trust funds, dedicated revenue for dedicated purposes, we ultimately destroy the power of the Congress to allocate resources where they are most needed.

This is not a pure analogy, but it goes back to Senator Boxer's State. Someone, and Senator Boxer can tell us who it was, in Marin County left an estate for the purpose of support for the arts.

Now there is not anybody in this Congress more determined to support the arts than I am. I have taken heat back home for support for the National Endowment for the Arts. A lot of people think I am supporting pornography. I disagree with them, but that is a separate issue.

That particular fund has grown to the point where an argument could be made that the money could be used some place else, and the arts could still fully be supported in Marin County.

In Marin County, California, they have virtually anything they want, because there is, what is it, Barbara, $1 billion in that particular endowment? It is something of that kind. I mean, we do not need the details.

Senator BOXER. I just want to make one quick correction, since I live there. This estate was really for a number of uses. She did not just leave it for the arts. She included the arts.

Senator BENNETT. OK.

Senator BOXER. So it is a little better than that, because she did say to help the impoverished, et cetera. So there were other things.

Senator BENNETT. All right, but we find ourselves with a worthwhile goal that is tied to a specific funding source. The funding source may not be solid, or it may be excessive. The appropriators are denied the right to make the kinds of adjustments that we make everywhere else.

Now we have the airport airways trust fund. I was partially responsible for creating that, because I was in the Nixon Administration at the Department of Transportation, when that came about. It was my responsibility to sell it to the Congress.

We have the Highway Trust Fund. We have the Social Security Trust Fund. We have a number of trust funds. We are creating or supplementing or tying a source of revenue to another trust fund, and creating interest cubicles, if you will, throughout the Government, for a particular purpose, a particular goal, and ultimately distorting the appropriations process, distorting the authorization process.

Now I am taking no position in this comment about whether or not the purposes of this bill are good purposes or bad purposes. I happen to believe that the National Park System, for example, is seriously under funded.

I sat on the Energy Committee, with Senator Wallace, and said we were not going fund any more a single acre addition to the National Park Service, no matter how meritorious, until we start funding the maintenance of the National Parks to the degree that they deserve to be funded.

This is from a man who is considered somewhat to the right of Attila the Hun, by some people, but I think he was absolutely right. We keep acquiring land, and then we do not pay to take care of it. We do not pay to fund the Park Service as we keep adding acres and acres. It is real nifty to have a national park in your State, but who is going to take care of the expenses of a national park?

So it is this overall question of the legitimacy of the mechanism created in this bill that I want to address that should we do it or should we not do it; should we do this in this way?

Does anybody have a comment on that?

Mr. TAUZIN. Yes, I can give you the results of that same poll.

Mr. BENNETT. May I make this comment? I do not want to legislate by polls.

Mr. TAUZIN. I understand.

Senator BENNETT. And I do not want an Easterner, even if he is solidly in my position in politics, coming out in the West and asking a question. Because I can control the results of the poll by controlling the wording of the question, and I can give you examples of that. I am sorry that I get passionate about this, but I do not want to legislate by polls.

Mr. TAUZIN. I do not want you to do that, either.

Senator BENNETT. OK.

Mr. TAUZIN. But it already a part of your record. I thought you ought to have the figures, if you want to look at them.

What it says is that the extremely popular Airport Trust Fund was matched up against the extremely popular Highway Trust

Fund, against this proposal, to trust fund moneys for land and water acquisition. Land and water acquisition topped them 45 percent, 37 to 7. I understand your feeling about polls.

Mr. BENNETT. You are missing the point. Do we want Government by trust funds? Regardless of how popular they may be, is that a logical way to run the Government?

Mr. TAUZIN. Let me try to answer that. What I wanted to say is that we have done that, because indeed the moneys collected for airports, we felt as a Congress, should go to airports. We felt the money collected for highways should go to highways.

The moneys collected from these offshore funds was dedicated, parts of it were, a long time ago, but it had never been used for the purposes intended, for land and water acquisition. That is a dedication that Congress made, years and years ago.

Just as we collected money for highways and did not spend it on highways, and for airports and did not spend it on airports, we corrected that. Now we corrected it with trust funding, to make sure that future Congresses did not do what past Congresses have done with this offshore money; and that is, just stuck it in the general fund and spent it for other purposes, other than the purposes it was originally intended and dedicated to by Congress, which was land and water acquisition.

Mr. BENNETT. I do not mean to be argumentative, but I am questioning the whole concept of dedicating source money that comes from one source to a source that is only vaguely related, if in fact not unrelated.

Mr. TAUZIN. Oh, but it is related.

Mr. BENNETT. Money from the Highway Trust Fund to go to repair highways; money from gasoline taxes to repair highways is very, very clearly a user fee; and that, I have no problem with.

Mr. TAUZIN. Yes.

Mr. BENNETT. Money from the airport airways, where you take it from the people who are flying to pay for the airports that they are in, in the FAA system, I have no problem with that. But when you get to the point where you say, what does oil and gas revenue have to do with PILT?

Mr. TAUZIN. I think that is a good question. Let me try to answer it. It has a lot to do with it.

Senator SMITH. We will make this the last question, because we can debate this somewhere else.

Mr. BENNETT. I apologize.

Senator SMITH. That is OK.

Senator BENNETT. I will try to do it quickly.

Senator SMITH. I want to get to Congressman Shadegg, and we do have two more panels.

Mr. TAUZIN. Senator, I invite you to come, whenever you would like to, and I would love to entertain you in Louisiana, and show you what it has to do with what we go through.

The pipelines and the canals that service the offshore industry that product this $120 billion for the National Treasury, all those pipelines have permitted salt water to intrude. As I said, we have lost the size of the State of Rhode Island, over these years, and we are going to lose a lot more.

The production of minerals on Federal lands impacts State revenues for counties. It impacts the loss of wetlands in our State. There is a direct relationship between the moneys derived from the people of this country in royalties and payments and leases, and the impacts we feel in land and water preservation and conservation in both our State and across America.

It has a direct impact to PILT, because it denies the local people the revenues they need to operate their schools. This is directly connected, and it is as connected as any highway fund or airport fund, sir.

Senator BOXER. Mr. Chairman, could I correct the record on something? I think it is important. My good friend, Senator Bennett, has an ideological issue with trust funds, which is another debate, I think.

But I wanted to agree with him that we do need to take care of lands we already have. I wanted to point out that in CARA, there is $200 million a year set aside for Federal and Indian land restoration. There is $100 million set aside for historic preservation. So when you see some of these beautiful sites in your State and mine that are falling apart, we would have that.

There is $125 million for urban parks, to get in there and take down the fences that are around some of these parks. So there is money in here to take care of some of the problems we are facing. I just wanted to make that point.

Mr. BENNETT. No, I understand that, Senator. My point is, I am not arguing, at this point, about the goals of the spending side of the legislation, or of the validity of gathering the money. I am just wondering how logical a link it is. I have exceeded my time, and I apologize for that.

Senator SMITH. There is no apology necessary.

We do have three more Members of Congress. We had set aside a period of 9:30 and 10:30 to do this. It is now 10:30.

But let me just say to the three Congressmen who have just arrived that your statements are made a part of the record. If you could summarize in 2 or 3 minutes, we would appreciate it. I will just take you in the order you came in.

Congressman Shadegg of Arizona, welcome.

STATEMENT OF HON. JOHN SHADEGG, U.S. REPRESENTATIVE FROM THE STATE OF ARIZONA

Mr. SHADEGG. Thank you, Mr. Chairman. I thank you for the opportunity to appear here before you today. I will try to summarize in 3 minutes. I will certainly appreciate the opportunity to insert my entire statement in the record.

Let me begin by saying, I agree with Senator Bennett, that the goals of this legislation are well intended. I fully support the goals of the legislation.

I want to also begin by saying that I think the authors are very, very skilled legislators, and that they put together a classic political coalition that is stitched together, district by District, with support in the House; and stitched across the Nation together, with support across the country.

But I think Senator Bennett said it well just a moment ago. Our duty is not to legislate by polls. Indeed, Edmund Burke made it

very clear that our duty is to exercise our independent judgment on the merits of legislation.

In that regard, I urge that your committee closely scrutinize the merits of this legislation and, in particular, the issue that Senator Bennett just raised, which is what is the proper structure for achieving these goals.

Let me begin with some points about the legislation itself. The supporters of the legislation will acknowledge that its sets aside $450 million a year to acquire new Federal lands; that is to buy more Federal land, year in and year out, $450 million.

I suggest that one serious flaw with that point is that it does not distinguish where that land should be acquired. My State of Arizona is already 87 percent owned by one level of government or another.

The last thing we need in Arizona is to buy more Federal land, taking it off of the tax roles, increasing the tax burden on those who already own private property. So I think that is a serious flaw.

Indeed, in Arizona, there is one county that is mostly owned by the Federal Government, and 97 percent of that county is owned by the Federal Government. They have to support the county government on a tax base of 3 percent of the land.

The proponents of the bill will defend this by saying, well, that was the average amount; $450 million was the average amount spent over the last 5 years since the Republican majority in the U.S. Congress. So that was a correct number to pick.

You can quibble with the number, because there was a particular high issue, but that is not the point I want to make. This has been five extremely good economic years.

If we pick those five extremely good economic years and say, well, that has been the average for five tremendously strong economic years, let us make it the average in perpetuity, forever and ever, and let us not make it the average. Let us put it on autopilot. Let us turn the switch so that every year, good year or bad year, year in, year out, we spend $450 million to acquire more Federal land.

I believe that makes no sense. I would ask the members of the panel, which among you believes that the economy is going to stay as strong forever in the future as it has been for the last 5 years. I suggest no one believes that.

Yet, this legislation would lock in, in entitlement, $450 million a year to buy new Federal land, even if the economy took a serious dip.

The second point I want to raise is the one that was just raised over here by one of the Senators in regard to the maintenance backlog. She pointed out that there is money in CARA for maintenance, and that is true. That is a good point. But let us look at the real facts and figures.

The reality is that for every dollar in CARA to maintain land that we already own, there is $2.50 to buy new Federal land. That means that we are buying $2.50 worth of new Federal land for ever dollar of maintenance that we do.

They will tell us, well, never in the past have we locked in money for maintenance. I happen to agree with the comments that were made earlier.

Our national parks, I think, are in dire shape. The Grand Canyon National Park is in my State. There are several others, and it is a disaster. We have not built new roads. We have not built a parking lot at the Grand Canyon National Park since I visited it when I was 13. I am here to tell you that was a long time ago.

I believe the priorities in this bill with regard to maintenance are simply backward. If you pass legislation to achieve these goals, I would strongly urge you to put a greater emphasis on maintenance. You can go visit any park in America, and you can see a desperate and crying need for maintenance.

The next to the last point that I want to make is the whole structure of entitlement. We are here for a reason. We have a duty to exercise our judgment, and to make discretionary decisions about where money ought to go.

This bill creates a new entitlement. In doing so, it puts money ahead of every other priority. Who in this room would say that $450 million every year, automatically spent on acquiring more Federal land is more important than education?

Who in this room would say that doing that every year, even in a bad economy, is more important than national defense? Who is this room would say that doing that every year, even in a bad economy; forget the past 5 years of good economy, but we should do it automatically in a terrible depression year, ahead of health care?

I suggest no one in this room believes that the acquisition of more Federal land, when the Federal Government already owns roughly a third of the land in the country, should be placed ahead of education, ahead of national defense, ahead of health care, and ahead of care for the indigent and the needy.

Yet, this bill does that. It creates an automatic pilot. It puts it in entitlement status. I think that is a serious flaw with the mechanism and, again, I agree with the goals of the author.

The last point I want to make is that you will hear much about the support for this legislation. You will hear that Governors support it, mayors support it, city council members support it, Parks Department members support it, hunters support it, fishermen support it, and no doubt they will say many, many others. That is true.

It is a tribute to the skill of its authors that they stitch together a bill that achieves those goals. But I would simply ask you to look closely at why those people support it, and to recognize the difference between your role in the process and their role in the process.

Governors support it because it gives money to States. Mayors support it because of the point that was just made about being able to buy new park land in their cities.

Parks Departments love it for that reason. Hunters love it because it does some very good things for hunting, and I am an avid hunter and a fisherman, and believe in it. All of those constituencies support it, but they are looking just at their little piece of the pie; their little stream of income that becomes an entitlement, and comes to them every year to spend.

I think every one of us here would like to have more money to spend each year, just funneled to us. It is our job to look at the

omnibus legislation to look at the whole picture, and to decide if this is the right way to spend these moneys.

I appreciate the time.

Senator SMITH. Thank you very much, Congressman Shadegg.

Next is Congressman Don Young, an old colleague and friend, and Chairman of the Houses Resources Committee.

Mr. YOUNG. Mr. Chairman, with your prerogative and with my prerogative, I would like to let Mr. Miller go first. I would like to bat clean-up, if that is all right.

[Laughter.]

Senator SMITH. All right, fair enough, if he does not use up all the time, we will let you come back.

Mr. MILLER. It is a strange relationship that we have, it is trust and verify, and he wants to go last.

[Laughter.]

STATEMENT OF HON. GEORGE MILLER, U.S. REPRESENTATIVE FROM THE STATE OF ARIZONA

Mr. MILLER. Mr. Chairman and members of the committee, thank you very much for providing this opportunity for us to testify.

I think we have sent to the Senate a magnificent piece of legislation. When we started out on this journey, Chairman Young and Senator Murkowski and Senator Landrieu introduced a bill called the Conservation Reinvestment Act.

Senator Boxer and I introduced Resources 2000. Nearly everyone said that these bills were too big, too expensive, and too far reaching. When we said we would try to merge the bills and everyone said it was impossible, Don Young and George Miller together, we did it.

When they said we would never get it out of the Resources Committee, we did it with a three to one bipartisan vote.

They said that we would never get the national coalition of parks and wildlife, the soccer enthusiasts, and that we would not get the hunters and the fishermen, together with the traditional environmental groups, and we would not get the hikers and the State and local officials together, and sports teams and manufactures, but we did.

Over 4,000 organizations supported us. Why; because they understand that this is the first opportunity to develop an environmental infrastructure that so many of our communities and many suburban communities are struggling with because of the incredible growth in those communities.

They said that we would never get a schedule on the House Floor, and there was too much ideological opposition, too many budget questions, too many jurisdictional fights between committees. But 3 weeks ago, 315 members of the House, a majority of both parties, proved all of the doubters wrong.

We delivered to the American people on a promise we made to them 36 years ago, and then forgot; a permanent substantial commitment to invest a portion of offshore revenues back into our parks, our coast, our urban recreation and our wildlife.

Despite the inflamed rhetoric that you will hear from a tiny minority of voices, we did it responsibly, without trampling on private

property rights or States' rights. In fact, our legislation takes special care to protect property owners by giving them notice and ensuring that all are involved in the process and focusing on alternatives to acquisition, and putting most of the money, about 80 percent of it, in the hands of State and local officials, and not in the hands of those promoting State land acquisition.

Now the responsibility is yours. You can listen to the rhetoric and the naysayers and the doubters, and try to kill this legislation, or you can listen to the 80 percent of this country that puts a very high value on parks, recreation, and the conservation of wildlife.

Or you can do as we do in the House; you can look at the bill and what it really says, not how it is characterized, listen to your constituents, not to the hysterical voices and the misstatements on the intent of the letter of the legislation, and put aside the party and ideological jurisdictional differences long enough to do something that will endure longer than any of us.

If Don Young and George Miller can figure out how to work together to pass CARA with 315 votes, I believe the U.S. Senate can figure it out, also.

When a number of us were down to the White House a few weeks ago, with Senators Murkowski, Landrieu, Breaux, Bingaman, and Boxer; and Congressman Young, Congressman Tauzin, John Dingle, and Congressman John, the President told us, and everyone in that room agreed, it would be shameful if we failed to pass this bill, having brought it so far. He was right, and the American people overwhelming agree with this.

So let us figure out how to get it done. Our resources, whether on the coast of Louisiana or the wildlife or the parks or the soccer teams or any others who will benefit, are at risk. We do not have years to delay. We have been waiting three decades. The time is now to redeem the promise that we made the American people.

Senator SMITH. Thank you very much, Congressman Miller.

We welcome Representative Young, Chairman of the House Resources Committee.

STATEMENT OF HON. DON YOUNG, U.S. REPRESENTATIVE FROM THE STATE OF ALASKA

Mr. YOUNG. Thank you, Mr. Chairman.

I would like to thank the committee for having this hearing. I also would suggest what Mr. Miller has said ought to be done, along with Mr. Tauzin, we ought to move this bill.

I have been very reluctant to get involved on the Senate side, because I know you have your own way of doing things, and I understand that. I have two Senators over here, and I talk to them continuously. One of them happens to be a sponsor of this legislation.

I would like to just address the issue of financing, No. 1. This Congress, and I collectively say the Senate and the House, owe the American people approximately $15 billion, because we have not spent the money on the original Land and Water Conservation Act, itself. We spent it on programs, very frankly, that we collect that money for, and it was not to be spent for.

I suggest, respectfully, those that say this is going to break the bank are not looking at the past history. I would suggest if you really want to do this, just take the $15 billion, apply it to CARA

as it is. That gives about 6 years, under the present funding program. If it is not working out and it is not correct, then we can revisit it.

We keep forgetting that every Congress is here temporarily. Of all the naysayers that testified before this committee and the other committees, if what they say comes true, we can always change it. In fact, the people will demand it.

Right now, the people are demanding the passage of CARA. Now it seems strange, you may think, that a person who has a 100 percent private property rights record would be supporting this bill, because I truly believe this bill better supports, better protects the private property rights people. The money is there. It should be spent.

For those that say that this should not be done, I would suggest, we did not draw this bill up according to polls. If you look at our society today, it is changing. It is changing dramatically.

We have a large organized area. When I first came here, Mr. Chairman, we had approximately 7.5 percent of our population that was in rural areas. Today, it is 1.5. There is a demand for space. There is a demand for hunting and fishing and recreation areas. There is a demand for historical preservation. There is a demand for conservation easements. There is a demand for the purchase of land.

But nothing says we are going to spend $480 million a year to purchase land. This is a collective effort to try to solve, I think, a very serious problem, as it comes down to this Nation and this year 2000 and beyond.

I am a person who believes very strongly that the Congress speaks for the people. There are 4,755 organizations that support this legislation from all walks of life. These are the people. It is not by a poll. This is the people that are asking us to do this.

My job is to encourage you to do it. I am not going to tell you how to do it or where to do it or when to do it. We all know there will be differences. I expect to be on the conference. I expect this to be done, and I hope to have your help, Mr. Chairman, because it think it is truthfully important.

I think the biggest disappointment is, we can have differences of opinion on the House side on ideology and philosophy of how this Nation should be run. But I have never done anything by a poll or have done anything by the will or the whim, or by how the wind blows. I have done during my whole career, all my 28 years, what I believe is correct.

I have that respect, and I do believe everybody should respect my opinions, and I respect theirs; but never question the integrity of this legislation, because it was well thought out, put forth. We included everyone. We had the discussion, and I believe we achieved that goal.

By the way, if you extracted the appropriators from the legislation, we would have probably had 140-some odd Members of the Congress on our side of the aisle. There was a majority.

It is a minority that was opposing this. It is a minority in the full House. It is a minority in my party. I do not think you necessarily always have to listen to the minority. Let us listen to the people of America.

Thank you, Mr. Chairman, for having this hearing.

Senator SMITH. Thank you very much, Congressman Young.

Unless someone has a pressing question, I would prefer to let the Congressmen and women leave, and bring the next panel up. But Senator Graham and Senator Lieberman, you did come in after they came, and if you have a question, I would be happy to yield for that.

Senator LIEBERMAN. No, thank you.

Senator INHOFE. Mr. Chairman, before they leave, I have one observation that I have made, and I have enjoyed listening to the presentations.

But of the estimated yearly CARA funding distribution, it comes to a total of $2.8 billion. Of the four States that comprise almost half of that, three of those States, we have heard from in this testimony.

Again, you were not here when Representative Tauzin was here, but I would have had to ask the same question here. Would you enthusiastically support this the same if you were in a State like Oklahoma, that would get $16.6 million, as opposed to $380 million?

Mr. YOUNG. I would, absolutely. This is the right thing to do, and that is more money that you are getting with this than you are getting right now.

Mr. MILLER. We have always thought the Senate would take a close look at that.

Senator INHOFE. Well, that is not quite true, Don, when you consider the money that otherwise would be going into the general fund for other purposes.

Senator SMITH. Thank you very much. I am going to take only a 3-minute recess, while C Clark comes up.

[Recess.]

Senator SMITH. The committee will come to order.

OPENING STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator INHOFE. Mr. Chairman, if I might, rather than to go through a rather lengthy statement, most of my points have already been made. I would like to enter my statement into the record, and at the same time, associate myself with the testimony of Ms. Chenoweth and Representative Shadegg.

I think particularly Representative Shadegg had some points that I think are very significant, and I agreed with everything that he said. I want the record to reflect that.

Senator SMITH. Thank you, Senator Inhofe. Your statement will be made part of the record. I also would ask unanimous consent for a statement from Senator Warner to be added to the record in support of S. 2123.

Senator SMITH. Senator Graham?

Senator GRAHAM. Mr. Chairman, I would like to also ask to submit for the record a statement. At some point, I would like to talk about the issue of the appropriateness of using a trust fund model for the purposes of this legislation. It will be based on the experience of my and other States in similar long-term land acquisition programs.

Senator SMITH. Thank you, Senator Graham, we will certainly have that opportunity.

Senator Lieberman?

OPENING STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator LIEBERMAN. Thanks, Mr. Chairman, I, too, would like to enter an opening statement into the record. I would just briefly say that it is that we are at a moment of extraordinary and, I suppose in some sense, unexpected opportunity. It is very important to try to blend or work together to actually get something done here in the Senate.

There is a great sense of expectation and hopefulness in States like my own, which are effected by development that want very much to acquire and preserve open spaces and wildlife areas.

While our State last year actually adopted a open space and watershed land grant program, with the goal of preserving 21 percent of the State as open space, the money that would come to Connecticut, smaller though it may be than what will go to the larger States, it nonetheless would have a significant impact.

So I look forward to working with you and other members of the committee and the Energy Committee to see that we get this done, and do it in the right way. Thank you.

Senator SMITH. Thank you, Senator Lieberman.

Senator Boxer, go ahead.

OPENING STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM THE STATE OF CALIFORNIA—CONTINUED

Senator BOXER. Thank you. I did speak briefly. I would ask unanimous consent to place my full statement in the record. I would like to speak for about a minute.

To me, this is that moment in history that we can do something across party lines. I was very heartened by the vote in the House, to see that coming together around this notion, that we need to have a legacy for our lands.

There are many bills here on the Senate side. Senator Bingaman was unable to be here because of a markup. I just wanted to make sure that I mentioned the good things in Senator Bingaman's bill that I hope any bill will have in the end. Because to me, whatever bill it is, it is unimportant; whatever name is on it is unimportant.

To me, the important thing is, one, we have substantial and permanent funding for conservation purposes; that we ensure the funds are used to benefit the environment; that we give adequate guidance to direct the funds to the most pressing needs; and that the bill be free of any incentives for offshore oil and gas drilling. I think that would be a mistake. This is a conservation bill, and not an incentives for drilling bill.

I think that Jeff Bingaman's bill, 2181, which is supported by Senators Baucus and myself and, I am not sure, but I think Senator Lieberman is on that bill, but it has some distinguishing characteristics that are worth highlighting in a few seconds here.

One, it includes an incentive program for landowners who contribute to the recovery of threatened and endangered species. In-

creased outreach to landowners, I think, is desperately needed for the continued survival of many endangered species.

Like some other bills, it provides funding to State fish and wildlife agencies for wildlife protection. But it does require that the States do a strategic plan for using these funds.

This ensures that funds will be used for non-game and game species, alike. The funds will be directed to the species that have the greatest conservation needs. That is the Bingaman bill.

It also provides greater clarity to coastal States to ensure that the funds will be used for the environment. Finally, it includes safeguards to ensure that the bill in no way creates incentives for that drilling that I talked about. I hope that we can work those elements of the Bingaman bill into the CARA bill.

My last point is, again, I wanted to reiterate that it was my intention to hold the House bill at the desk. But it moved so quickly that I did not have a chance to do that.

So what I did was to take the House bill, word for word, and as I said before, it should be some comfort to Senators Inhofe and Crapo and others, I do have some problems with it. But I think it is a wonderful starting place for us.

We have introduced that as a bill, and we have put it on the Senate calendar. So if we get trapped and stuck, and if no committee can get a bill out, Senator Lott, who supports the CARA bill, can just put it right there on the Floor. So that is why I did that, as a little strategic move to make sure that we can get this done.

So with that, Mr. Chairman, I really want to thank you, because I know that you did not have to have this hearing. You did this because a lot of us urged you to. I appreciate it very much.

Senator SMITH. Thank you, Senator Boxer, and of course, your statement will be made a part of the record.

As you can see from the hearing, we did get all sides heard here, which was the objective.

Senator BOXER. Yes.

Senator SMITH. We still have the Honorable Jamie Clark, as well as another panel following.

Before I introduce the Director of the U.S. Fish and Wildlife Service, I just wanted to announce that this hearing is the first EPW hearing to be simulcast on the Worldwide Web.

Senator BOXER. Oh, great.

Senator SMITH. So it will be maintained for future viewing on the committee web site. For those that are interested, it is www.senate.gov/epw. So we are in the modern world.

Senator BOXER. Yes, we are.

Senator SMITH. Director Clark, it is great to have you here. You know the drill here. Your statement will be made part of the record. If you could summarize it briefly, we would appreciate it.

STATEMENT OF HON. JAMIE CLARK, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE

Ms. CLARK. Thank you, Mr. Chairman. I do appreciate the opportunity to present the Administration's views on S. 25, 2123, and 2181, each of which provides permanent funding for conservation programs from outer continental shelf oil and gas receipts.

The President does feel strongly that this is the year to secure permanent funding for State, tribal, and community efforts to protect wildlife and local green spaces, to reinforce Federal efforts to save natural and historic treasures, and to expand efforts at all levels to protect ocean and coastal resources. These bills all seek to accomplish this.

The Administration has several broad goals for the final version of this legislation. We believe it must ensure that new funding is devoted to purposes consistent with the conservation goals of this legislation; that new funding for wildlife protection be targeted primarily for at risk and non-game species; and that an appropriate oversight role be secured for the Department of Commerce.

We also strongly recommend that the bill not establish new incentives for offshore exploration or development, and that it not impose burdensome or unnecessary restrictions on Federal authority to acquire and protect lands.

There is a tremendous degree of common ground between the Administration's objectives and the bills pending before the committee, and the Administration is fully committed to working with you to achieve these goals.

The Fish and Wildlife Service, as you know, is involved in a number of programs that these bills address. The first is a coastal impact aide program found in differing forms in both bills.

There are extensive coastal responsibilities in both the Department of Interior and the Department of Commerce. Our own coastal programs and activities are detailed in my formal statement.

We urge you to provide for a shared role by the two departments in this, as the most effective way to assure coordination and to avoid duplication and waste.

In contrast to the divergence on coastal programs, the bills have virtually identical provisions from matching grants to the States for wildlife conservation, and we seek only a few changes.

Both bills require an "emphasis" on non-game species, and "emphasis" is in quotes. We feel strongly that there should be greater direction that the funds be used for at-risk, non-game species.

These grants, particularly if focused as we request, can be an invaluable tool to help prevent species from declining to the point where they would need listing under the Endangered Species Act.

Apart from Pittman-Robertson and Dingle-Johnson Acts, which are focused on game species, virtually all Federal programs have been devoted toward species that are already in serious trouble.

Funding of the magnitude proposed in these bills could have tremendous benefits for the Nation's at-risk non-game wildlife species. We urge the committee to aggressively pursue enactment of this wildlife grant program, and hope that we can work with you to set its proper focus.

We are also very concerned about funds for administering the program. S. 2123 provides 2 percent of available funds for administration of the other programs it authorizes, while prohibiting any administrative funds for the non-game wildlife grants.

S. 2181 makes 2 percents of the funds available for administration. The program will surely fail without appropriate oversight and administration, and we need a permanent and adequate source

of funding for administration if we are truly to make it work effectively.

We are pleased to see that 2123 provides for the interest generated on the funds set aside for non-game grants to be made available for the North American Wetlands Conservation Act.

As this committee well knows, this is one of the most successful and population conservation programs in the country, and demands for grant moneys with matching funds far exceeds the Federal funds available to make the grants each year. So any funding that can be made available for this incredibly successful program will be effectively and efficiently used.

Both bills provide funds for cooperative Endangered Species recovery agreements, which is one of the most exciting concepts within the legislation, and would be of tremendous value in furthering our species recovery efforts.

Recovery, like all natural resources conservation, can not succeed as a totally Governmental effort. The current demand for landowner incentive grants to support species recovery initiatives far exceeds available funding. Guaranteed funding is probably the single most effective action that Congress could take to speed recovery for listed species across this country.

Last, we have refuge revenue sharing. S. 2123 provides funding to pay a portion of the costs of the refuge revenue sharing and payment in lieu of taxes programs, while S. 2181 provides funding only for PILT.

Currently, counties are receiving less than 60 percent of their refuge revenue sharing entitlement. We, therefore, welcome any additional sources of funds for this program, and would hope that the committee would address this in the final version of the legislation.

Mr. Chairman, the Administration does, indeed, look forward to working with this committee and the rest of the Senate to build on the bipartisan spirit shown by the House, and to find a way to do what the public clearly wants us to do; to leave a legacy of financial resources adequate to protect our Nation's national treasures.

This is truly an opportunity, in the words of Theodore Roosevelt, to leave an even better land for our descendants than it is for us.

I would be happy to respond to any questions. Thank you.

Senator SMITH. Thank you very much, Director Clark.

Right on the point of the refuge revenue sharing, in your opinion, in S. 2123, is the revenue provided or the funding provided in that bill adequate to address the needs of all the communities across America that may have a refuge within their borders?

Ms. CLARK. Well, it is clear that it provides a portion. I am not sure that it provides for the full entitlement, but the opportunity is certainly there, with a little bit of tweaking, that we would be glad to work with you on.

Senator SMITH. But the Administration is supportive of spending money on this program; is that correct?

Ms. CLARK. Yes, it is.

Senator SMITH. As you know, last year, when GAO testified before the House Resources Committee, they had some rather harsh words for the Pittman-Robertson program. I think the exact term was, the program was being administered in a manner that

"spawned a culture of permissive spending." That is one of the reasons why S. 2123 does not permit administrative funds to be used for the Pittman-Robertson program.

What changes have been made in this program to rectify these problems?

Ms. CLARK. We have been in the midst of making a number of changes, Mr. Chairman. Clearly, we heard loud and clear from the Congress about their concerns about administration of this program, and from the GAO, as well, although we still await their final report.

The Fish and Wildlife Service also, along with a lot of support from our State partners, conducted a fairly extensive oversight review of the Federal aid program across this country. Indeed, we also dealt with some internal evaluations, dealing with how the dollars are accounted for, what the appropriate oversight of our own program is, how we are going to resolve audits.

We are in the midst of shoring up that program as we speak. Rather than going to a lengthy report, I would be glad for the record to demonstrate the distance we have come.

Certainly, the reaction in this legislation should not be, in any negative way, aimed at compromising our ability to do our part to shore up natural resources.

Senator SMITH. On that, for the record, unless you want to respond to it here, I just want to make sure that you indicate how the Fish and Wildlife Service would administer this program, if the funds are not authorized to administer the additional revenue, if you could provide that for the record. In view of the fact that GAO was critical, I think it is important to clarify that.

Ms. CLARK. I would be happy to.

Senator SMITH. Senator Boxer?

Senator BOXER. I do not have any questions.

Senator SMITH. Senator Crapo?

Senator CRAPO. Thank you, Mr. Chairman.

Jamie, I appreciated your comments and your testimony about the impact of PILT legislation or the lack of PILT funding and other resources for the counties. I just wanted to pursue that with you a little bit.

As you indicated, the counties are now seeing, especially in rural areas that are heavily impacted by Federal ownership of land, dramatic losses of resources, as we see the timber revenues shrink up and other resources shrink. As a result of that, needed funds for our rural education programs and some of the other critical programs that the counties operate are going unmet.

It is a constant battle here in Congress to get the adequate funding for those support programs, even though it is properly the Federal Government's responsibility to make up for those loss of funds.

Do I take it from your testimony that the Administration would support some effort in this legislation to not only address that, but address it in a way that makes the solution permanent, like some of the solutions that are in the bill already are permanent, with regard to dedicating resources to other purposes?

In other words, can we assure the counties, not that there is a match if the Congress decides to do it in the right way, but assure

the counties that there will be adequate PILT funding, or similar types of funding, for county support?

Ms. CLARK. Well, Senator, every time you say PILT, I am going to put "refuge revenue sharing" on the end, because I am certainly concerned about the refuge system.

Senator CRAPO. Fair enough.

Ms. CLARK. But clearly, we have been exploring for a number of years ways to respond to the counties and ways to reimburse, so to speak, the counties from refuge revenue sharing. The Administration is absolutely prepared to work within the confines of this legislation to provide the level of certainly that we believe is important.

Senator CRAPO. So the Administration would not oppose trying to put some kind of certainty, in terms of that funding, into this legislation?

Ms. CLARK. No.

Senator CRAPO. Let me move to a another area. One of the issues that has come up quite often is the issue of maintenance of our currently owned public lands and facilities.

From what I understand, the maintenance backlog is in the billions of dollars. I have seen numbers that range from $12 to $20 billion, in terms of maintenance needs across the country. First of all, are those numbers in the ballpark? Do we have that large a maintenance need in the country?

Ms. CLARK. There is a very substantial maintenance need within the land agencies. Within the Fish and Wildlife Service, it is about $800 million, of the backlog of maintenance needs for the National Wildlife Refuge System.

So I would imagine when you add the Park Service and the Bureau of Land Management and the U.S. Forest Service, that it is pretty substantial.

Senator CRAPO. It is a substantial amount.

In that context, I can tell you from our experience in Idaho, that the maintenance needs are crying for some type of a solution. That also has an impact on the local counties, and the economies of these counties that depend on the tourism and the recreation and the other activities that are related to the use of the public lands.

Again, in that context, I would like to have your opinion on whether we should not seek, as we address this overall issue, to apply a larger portion of the resources we have to maintenance, and to dedicate them to that objective.

Ms. CLARK. Well, that is certainly an issue worthy of discussion, as we look at the balance of targeted resources within this bill. The Administration would be glad to engage that.

We have been in this conversation with the Appropriations Committees in both the House and Senate for a number of years, and they have been very thoughtful and very generous about that support. But it is certainly worth discussion.

Senator CRAPO. All right, thank you. I have no further questions at this time, Mr. Chairman.

Senator SMITH. Thank you, Senator Crapo.

Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman.

Ms. Clark, I would like to discuss with you a provision in the House bill, Section 211, which is a Montana-specific provision. It was introduced by Congressman Hill from Montana. I would like to have just your thoughts about it and how well it would work or not work.

Clearly, we do not want excessive Federal ownership. Nobody, I think, does. On the other hand, we also do not want to discourage transactions that have broad public support.

The provision in the House bill essentially says that with respect to Montana only and no other State, that an exchange or an acquisition must be designed to ensure that there is no increase in total acreage of Federal lands in Montana, that is above de minimis.

I do know that in many cases, there are land exchanges where acreage is not totally one-for-one. That is, acreage on the one hand might be large, but the value of that acreage might perhaps in the dollar value per acre is much less than the dollar value of acreage that might be exchanged, or there may be some cash involved in the land exchange.

I mention all of this because in Montana, we have had great success lately, as you know very well, having been part of this, with land exchanges.

The whole purpose of this is to consolidate private ownership, and to consolidate Federal ownership to try to undo the problem that was created years ago with checkerboard Federal ownership patterns, caused by Congress in passing legislation to give incentives to railroads, for example.

It went to private Federal land and just caused tremendous management problems, both for the Federal Government, for the Forest Service and BLM, and for private ownership, whether it is timberlands or recreational land or whatnot.

So I am concerned about this provision. I just wondered, from your perspective, how you see that working, and just basically what your view is of that provision in the bill.

Ms. CLARK. Sure, Senator, well, I share your concerns. First, the notion of consolidation of Federal ownership is something that the Fish and Wildlife Service and, I imagine, my colleagues, are already focusing on. So that provision is, in reality, unnecessary.

The notion of consolidating Federal land ownerships is important to us, not only from an efficiency and effectiveness of management standpoint, but to shore up the biological integrity of these lands that we are entrusted to protect for the future.

The de minimis requirement, I believe, is somewhat counter-productive for a lot of the reasons that you just laid out. You are right, when we are engaged in some of these really creative land exchanges, it is not a one-for-one.

Oftentimes, what you are exchanging in one area, whether we are shoring up biological value or land costs or intended use of the area, it is not at a one-to-one.

So this notion of de minimis, I think, could seriously not only limit options, but it could seriously affect the biological integrity or the intentions of some of these exchange opportunities. But it also could compromise, in a negative way, the flexibility of the people of the State of Montana.

Senator BAUCUS. You know, obviously, we do not want, as I mentioned earlier, excessive Federal ownership. But it is just my experience, frankly, at least in Montana, for example, the purpose of the Royal Teton Ranch to help wildlife migration patterns, north of Yellowstone Park.

Ms. CLARK. Absolutely.

Senator BAUCUS. This is very, very important to the elk herd and the other wildlife in Yellowstone Park.

But also other consolidations have been fully vented to the public. I mean, there are untold hearings. It just seems to me that we do not want an artificial constraint that is going to prevent the public from accomplishing some result that seems to the public to make sense.

Ms. CLARK. Well, I certainly do not think you want do compromise public involvement. Equally and importantly, you do not want to compromise flexibility or opportunities to ultimately get the best deal for all involved parties.

This amendment could compromise any kind of creativity and flexibility that would be gained in any kind of open forum, anyway.

Senator BAUCUS. Thank you very much. I want to thank you for your good work, too. You have been a real credit to the Administration and to the people of the United States.

Ms. CLARK. Thank you.

Senator SMITH. Thank you, Senator Baucus.

Senator Graham?

Senator GRAHAM. Thank you, Mr. Chairman, and thank you for holding this hearing. I would like to make a couple of preliminary comments.

I put this legislation in the context of history; history looking backward and historic challenges looking forward. It is interesting to me, as we start the third century of the history of the United States, that we have an opportunity, analogous to that which was presented to us at the beginning of the first and the second century.

In the first century, during the Administration of Thomas Jefferson in 1802, we purchased Louisiana. It doubled the size of the United States. It made the United States a continental, rather than an Atlantic nation.

It prevented North America from being the site of colonial wars among competing European interests. It was a bold, visionary and, at the time, a very expensive undertaking. But clearly, it was a great gift to the future of the Nation.

At the beginning of the second century, Theodore Roosevelt added to the treasury of the public lands of the United States an area that was the equivalent of all of the States from Maine to Florida; again, a great gift, which has benefited our Nation.

As we start the 21st century, we have a national population of approximately 270 million to 275 million people. The Census Bureau projects that by the beginning of the fourth century of America's existence, we will have a population of 571 million people.

So our challenge is what are we going to do, similar the actions of Thomas Jefferson and Theodore Roosevelt to be prepared for not only that substantially larger number of Americans that has been

indicated, but a number of Americans who will be even more urban.

They will also be older, and they will be more diverse than the Americans today and, therefore, will have a wider range of interests and desires to be able to participate in the outdoor experience that this legislation intends to make more available.

So I think we are talking about a piece of legislation that is not the normal work that we do, but is really of historic significance.

Second, there have been discussions about whether it is appropriate to use a trust fund model for this. I will say from my own experience as a State legislator and then Governor of a State which had a very expansive land acquisition program, it was our finding that unless you had a dedicated source that could be depended upon, and which people had confidence in, that a land program tended to become an annual fight within the political entities as to who could get on the train that was leaving town that day, because there was no confidence that there was going to be another train leaving on the following day.

One of the benefits of having an assured source of funding is not only the adequacy of the funds, but the fact that it allows you to do intelligent planning and the establishment of priorities.

People who may look at that list and say, I am on the priority list but I am 5 years downstream, will have enough confidence that the program will exist 5 years from now that they will be willing to defer their aspirations until their time has come.

So I think this funding mechanism is critical to accomplishing the very objectives for which we are establishing this program.

Let me turn to the question that you were just discussing. That is the issue of the accumulated maintenance requirements on Federal lands.

Does the Department of Interior, in the various areas in which it is a steward of Federal land, have a strategy for beginning to deal with this accumulated backlog of maintenance, and how does this legislation integrate with that strategy; and would you recommend any modifications in this legislation in order to more effectively impact that backlog of maintenance?

Ms. CLARK. Clearly, Senator, the Administration has taken very seriously the need to protect what we have. Indeed, the Department of Interior does, in fact, have a strategy to address the maintenance backlog on our lands.

We have dealt with it in 5 year intervals. This is something that we can grab on to, with a primary focus on health and safety, safe visits, safe passage, and then following focus on resource priorities needs, and on and on.

So, certainly, for the Fish and Wildlife Service, we have a very documented, strategic plan to address the backlog of maintenance needs in the national wildlife refuse system.

I believe that this legislation, along with the initiations already under way within the Department, could compliment each other in a very positive way. It is so important that we take care of what we have.

The initiatives in these bills before the Senate and the work that is already ongoing in the department could very significantly leverage and compliment each other. We look forward to that discussion.

Senator GRAHAM. Well, my time is up. But I recognize this committee's principle jurisdiction on this matter is in your agency, and that other areas of the Department of Interior, such as the national parks, are in other committees.

But I would be interested in getting some further materials on what the strategic plan is, and your thoughts about how this legislation might be part of actually achieving that strategic plan, and if that suggests any modifications in this legislation.

Ms. CLARK. Certainly, I would be glad to.

Senator GRAHAM. If you could do that for your agency, and if you could mention to Mr. Stanton and some of the other folks, that we would like a similar analysis for their areas of responsibility.

Ms. CLARK. I will pass the word.

Senator SMITH. Thank you, Senator Graham.

Senator Crapo, do you have any further questions?

Senator CRAPO. I have no questions, Mr. Chairman.

Senator SMITH. Senator Boxer, do you have any further questions for the witness?

Senator BOXER. I just might have one. Why is it important to provide the funding for the non-game wildlife?

Ms. CLARK. For a number of reasons; we have a very successful program, the Pittman-Robertson program, that focuses on game species, and rightfully so, as the income for that program is derived from excise tax, derived from hunting and hunters. The States have been incredibly successful at maintaining and supporting populations of game species, over the years.

We all know about the Endangered Species Act, and what happens when it is at the end of the track, and the serious investment that comes with trying to recover a species from the brink of extinction, when they have already kind of gotten in the bottom of the emergency room.

What we have in between is the vast majority of species, the non-game species, for which the American public is increasingly putting focus on, with bird watching, nature photography, and on and on, as you know.

At-risk species, migratory bird species is a concern; candidate species, species that are tumbling toward the Endangered Species list; declining species within State boundaries, sensitive species that are on other Federal agencies list.

I certainly believe that they deserve dedicated focus. I believe that the public deserves that they deserve dedicated focus. It is far more efficient, far more effective. We have so significantly much more flexibility if we can plan and address the needs of those species, before they are sitting on my desk in a red folder, putting them on the Endangered Species List.

Senator BOXER. So it is prevention, in way?

Ms. CLARK. Absolutely, it is prevention and sustaining a really rich biological heritage for this country.

Senator BOXER. Thank you very much, Jamie.

Senator SMITH. Senator Graham, did you have any followup, second round?

Senator GRAHAM. Mr. Chairman, I think I have covered the principle issue that I wanted with Mr. Clark. I am looking forward to her followup materials.

Senator SMITH. Thank you.

Thank you, Director Clark. We appreciate it very much.

We will now turn to the third panel. I will introduce them, in the interest of time, as they come to the table: Mr. David Waller, the President of the International Association of Fish and Wildlife Agencies, accompanied by Mr. Wayne Vetter, the Executive Director of the New Hampshire Fish and Game Department; Ms. Rindy O'Brien, Vice President of Policy of the Wilderness Society; Mr. Rodger Schlickeisen, President, Defenders of Wildlife; Mr. Mike Hardiman, American Land Rights Association; Mr. Charlie Niebling, Policy Director, Society for the Protection of New Hampshire Forests; and Dr. Rollin Sparrowe, President, Wildlife Management Institute.

Ladies and gentlemen, welcome to all of you. In the interests of time, if you could summarize your statements in 2 or 3 minutes, we would appreciate it. Your statement will be made a part of the record.

I will just start from left to right here, and start with you, Dr. Sparrowe.

STATEMENT OF ROLLIN D. SPARROWE, PRESIDENT, WILDLIFE MANAGEMENT INSTITUTE

Mr. SPARROWE. Thank you, Mr. Chairman.

We at the Wildlife Management Institute are pleased to lend our strong support for a consolidated approach to legislation reflected in the three pending Senate bills.

This is an issue on which people have been working for a long, long time, and I want to offer some historical perspective that you may not have.

Way back in 1973, a model non-game law proposal was presented by Winchester Arms, with assistance from our institute. In 1975, our institute worked with the Council on Environmental Quality to do an assessment nationally of the needs for non-game work by the States.

There was an early desire in this to see non-hunters and fisherman share in the cost of conservation. The legitimate needs surfaced in these early studies are some of what has driven us through legislative attempts such as the 1989 Fish and Wildlife Conservation Act, which was not funded by the Congress.

So the needs are still there, and a lot of people have been working on this, including the sporting community, for a long time.

Our agencies are beset with increasing responsibilities for things like environmental reviews, the fall-out from public furor over what to be done with wildlife inhabitants on public lands, as well as the private lands within States. This has become a significant burden limiting the abilities of agencies to keep up.

As an example, just across my desk yesterday, the State of Montana's annual report shows license revenues at 64 percent, and Federal aid at 22 percent of their entire budget. Yet, they have to deal with an array of declining species. There is no buffer for the periodic ups and downs in this kind of funding that comes to the States. So the need is there, and it is very critical.

We feel very strongly that such new funding would strengthen the existing fish and wildlife agencies with habit responsibilities for

fish and wildlife. They have the authority. This would keep that activity in their hands, where it belongs.

It would add more habitat accessible to tradition uses, like hunting and fishing as a dividend from broader conservation. It would widely expand the public involvement now in guiding and supporting these agencies.

I want to differ a bit from some of the testimony you have heard. The Pittman-Robertson program has no limitation and never has on focus on game species. It was a natural focus, because those game species, in 1937, were essentially the Endangered Species in North America.

When we started the teaming with wildlife activity here about a decade ago, a survey of States showed that almost 40 percent of the money going into non-game and Endangered Species programs in the State wildlife agencies was coming directly from licensed revenues, from hunting and fishing, or from the Federal aid existing programs. So they have supported a good bit of the non-game work that has been done.

We feel very strongly that a management function with stable funding in the agencies has to compliment any national effort for land protection and land preservation, because in order to get the benefits from this, we certainly think there has to be active management in the long term of these wildlife resources.

So our common message is that the need is clear and well documented. There is a model in the existing Federal aid programs that is very good, that we can buildupon. We want to see the authority for these things kept with our States.

I have just a couple of final points. The vision of this, from the beginning, back as early as 1973, was to fund work on non-game species. That remains the vision of most of the people who support this legislation.

I think there is an equal interest on the part of the hunters and anglers of America in the Land and Water Conservation Fund. This was not something hatched by modern environmental groups, many of whom did not exist when Land and Water came forward.

In fact, the Isaak Walton League supported this initially, and it was hunters and anglers that pushed for that fund, and were its supporters in its earlier days, and remains so. We all have a stake in many parts of this legislation.

Thank you, Mr. Chairman.

Senator SMITH. Thank you very much, Dr. Sparrowe.

Mr. Niebling, welcome.

STATEMENT OF CHARLIE NIEBLING, POLICY DIRECTOR, SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS

Mr. NIEBLING. Thank you, Mr. Chairman.

Founded in 1901, the Society for the Protection of New Hampshire Forests is a non-profit membership organization, dedicated to the wise use of our natural resources, in their complete protection and places of special environmental or scenic importance.

We are also private landowners. We own and manage 33,000 acres of productive woodlands, which I believe makes us unique among State-based conservation organizations.

Just last week, Mr. Chairman, the New Hampshire legislature passed and funded a new program called the Land and Community Heritage Investment Program. The Forest Society led a coalition known as Citizens for New Hampshire Land and Community Heritage, involving 120 farm and forest landowners, business, civil, tourism, recreation, wildlife, historic preservation, and land conservation organizations, over a 2-year period, to secure passage of this landmark legislation.

This same coalition has also formally and actively lobbied for the CARA bill, since 1999. For the record, we support passage of the CARA bill, S. 2123.

There are elements of the Conservation and Stewardship Act, S. 2181, that we support and would like to see incorporated into 2123. There are elements of the recently passed H.R. 701, the House version of CARA, that merit serious consideration by this committee.

While there are many important provisions within 2183, one important accomplishment is the restoration of full and dedicated funding for LWCF. We are particularly supportive of the significant dedicated funding for LWCF. We are particularly supportive of the significant dedicated funding allocated to the stateside program of land and water.

With the recent passage of our State Conservation Bill, which also has a matching funding requirement, New Hampshire communities are ready, willing, and able to take advantage of stateside land and water funding.

This legislation would be improved, however, by modifications embodied in S. 2181. In particular, Senator Bingaman's bill would first, create an additional, more flexible fund, which is capable of addressing important State-led projects of local, regional, or national significance, which exceed the capacity of the traditionally administered stateside program.

Second, it would encourage the private, public partnership embodied in the Forest Legacy Program and the Farmland Protection Program. This provides a critically important tool by allocating funds to purchase conservation easements from willing sellers, thereby keeping our most productive forest and farmlands in private ownership.

I want to briefly address each of these provisions. First, flexible funding, Title II of S. 2123 reauthorizes Federal and stateside programs of LWCF. Both are highly successful programs, serving critical needs, and both deserve full and permanent funding.

However, LWCF currently does not provide funding for larger State or local projects of regional and national importance that exceed the capacity of the stateside program. In addition, States with little Federal land, or with small populations, such as New Hampshire, do not have access to significant Federal funding.

Many Senators and others have expressed concerns that the distribution of funds under Title I, the Coastal Impact Assistance, is unfair and disproportionately benefits a few States.

A way to rectify this is to modify the formula and utilize some of these funds in a competitively bid, flexible fund to which all regions of the country, with well documented conservation needs, that exceed the stateside formula, will have equal access.

S. 2181 does this by adding a new Section 14 to the Land and Water Conservation Fund Act, creating a fund known as the Non-Federal Lands of Regional or National Interest Fund. H.R. 701 accomplishes the same, under Section 206 of Title II.

Many States, most notably New Hampshire, are looking for ways to protect important working forests and ecologically or recreationally important lands, without creating or expanding Federal units. Supporting alternatives to new Federal ownership promotes local control and partnerships that respect local values and priorities. We hope the consensus Senate bill will include this flexible funding provision.

Second is the Forest Legacy and Farmland Protection Programs. New Hampshire has a long history of using conservation easements to permanently protect land from development, while retaining private ownership and control. Our State has utilized legacy funds to protect thousands of acres of productive, managed woodlands.

For example, there is much current interest in our State to buy a conservation easement on 171,000 acres of productive timberlands owned by a large corporate timberland owner. The owner is a willing party to these discussions.

A legacy easement will keep these lands in private ownership, keep them contributing to the tax base in the local economy, and will protect both the economically important uses, such as timber production, hunting, and snowmobiling, and ecologically important features of the land.

Under Title VII, S. 2123 authorizes a conservation easement program. Yet, it is unclear how this program relates to existing Federal easement programs, such as Legacy or the Farmland Protection Program.

Title VIII of S. 2181 addresses this by specifically authorizing funding for Forest Legacy, the Farmland Protection Program, and a new program called the Ranch Land Protection Fund.

H.R. 701, as passed by the House on May 11, includes language that we support, allowing qualified, non-profit organizations to hold easements under these programs. We hope the Senate will work to reconcile these slightly varying approaches.

Let me just speak briefly to the issue of PILT, if I may, Mr. Chairman. If the Federal Government is going to continue to acquire lands, it must fully fund its authorized payment in lieu of tax and refuge revenue sharing obligations.

Maintaining fiscal relationships with local governments is as important an aspect of Federal land stewardship as is the responsible management of the land.

As you know, Senator Smith, the Federal Governments pays about 46 percent of the authorized PILT payments on lands of the White Mount National Forest. This is a source of much tension between our rural northern communities and the U.S. Forest Service.

To summarize, Mr. Chairman, we strongly urge you to use this hearing and other means to communicate with the leadership of the Senate and the Energy and Natural Resources Committee to insist the differences be bridged and sound conservation legislation be enacted this year.

There are considerable hurdles, budgetary and otherwise, yet to overcome. Like you, however, we recognize that recent passage of

H.R. 701 in the House provides us with a rare opportunity to pass significant legislation.

The House vote is an indication of a broad cross section of Americans speaking loudly in support of CARA. Their message, to paraphrase the American Express commercial is, do not leave for home without it.

With that, Mr. Chairman, I will conclude my testimony. Thank you.

Senator SMITH. Thank you, Mr. Niebling.

Mr. Hardiman?

STATEMENT OF MIKE HARDIMAN, AMERICAN LAND RIGHTS ASSOCIATION

Mr. HARDIMAN. Thank you, Mr. Chairman, for inviting the American Land Rights Association to testify today.

I am inholder of private property located in California that is surrounded by the Bureau of Land Management. I purchased the parcel 11 years ago, anticipating that access to government-owned land would continue to be cutoff by the Desert Protection Act and other laws.

That prediction has certainly held true. I use the property for recreational purposes, such as camping, and as a base camp for rock climbing and hiking.

On a per capita basis. S. 2123 is a remarkable cash cow for two States, Louisiana and Alaska. Louisiana Benefits $71 per capita, more than six times the average, and Alaska rakes in $266 per capita annually or 24 times what the average State receive.

These two States may have legitimate claims to the funds. However, I implore the Senate to avoid the creation of a $45 billion, 15 year land acquisition trust fund, as part of a political deal to satisfy those claims. It will provide the power and money for Government agents to kick people like me off my land.

Over-zealous regulators, joined by environmental pressure groups, both have a front row seat on the CARA grant money gravy train. They will make folly of the ''willing seller'' clause by harassing owners of properties targeted for acquisition, and discouraging other potential buyers. It is not possible to negotiate as a ''willing seller'' when Government is the only buyer.

Every owner of a ranch, woodlot, or game preserve will be at risk of being targeted by Government agencies, working in tandem with environmental, anti-hunting, and animal rights pressure groups.

Ironically, since they hold the most desirable properties, private landowners who have been the most diligent caretakers of their holdings will be on top of the land grab list for government takeover.

The umbrella group that is coordinating the campaign in support of CARA is an outfit called Americans for Heritage and Recreation.

Proudly displayed on their web site are their Guiding Principles, which include this statement regarding property rights protections. ''AHR adamantly opposes any restrictions on the Land and Water Conservation Fund, especially those that limit acquisition to Federal inholdings or adjacent lands, employ arbitrary geographic restrictions on the use of funds, require new authorizations, or prevent condemnation.''

The differences between S. 25, introduced early in 1999, and S. 2123, introduced early this year, kowtow to AHR's demands. I will quote here a transcript of Senator Murkowski, discussing land acquisition on Alaska Public Radio on May 9, just 2 weeks ago.

Murkowski: "This is the Senate Bill 25. It has to be within units established by an act of Congress. It has to be two thirds of the money spent east of the 100th meridian, which is primarily east of the Mississippi, and the purchases of over $5 million require Congressional approval. So we have got some safeguards in here that are responsible."

Caller: "Is the Senator willing to filibuster if those property protections are stripped out?"

Murkowski: "Well, I would be happy to respond to the caller, based on what kind of a debate we get in, and whether this bill ultimately moves or not."

Those protections are, in fact, not included in S. 2123. Furthermore, in accordance with AHR's wishes, amendments to prohibit use of CARA funds for condemnation of private property, outside of the Federal side of LWCF, which is only one-sixth of the total, were rejected by the bill's sponsors, both in committee and on the Floor on the House side.

There are some hoops that the Government is required to jump through on the Federal side of Title II, which is the Land and Water Conservation Fund, but those in S. 2123 apply to only $450 million out of nearly $3 billion per year that is disbursed.

S. 2123, and its companion legislation, H.R. 701 is a fraud. It is a political sell-out of landowners, in exchange for huge piles of cash for Louisiana and Alaska. In per capital terms, nickels and dimes are handed out to other States to buy them off. It is a tragic and unprecedented attack on private property ownership in the United States.

Attached to my testimony are additional statements opposing CARA from several other organizations, the Gun Owners of America, Citizens Against Government Waste, the Sixty-Plus Senior Association and others.

Thank you for the opportunity to testify today, Mr. Chairman.

Senator SMITH. Thank you, very much, Mr. Hardiman.

Mr. Schlickeisen?

STATEMENT OF RODGER SCHLICKEISEN, PRESIDENT, DEFENDERS OF WILDLIFE

Mr. SCHLICKEISEN. Thank you. I guess I have been placed here to give a contrary view. I guess I can do that.

Mr. HARDIMAN. I am outnumbered seven to one, today.

Mr. SCHLICKEISEN. I am here representing the Defenders of Wildlife, Mr. Chairman. I am happy to submit our testimony for the record. It is also representing testimony of a number of other members of our fairly sizable environmental coalition, supporting this general legislation before you.

All of these bills have in common the very laudable goal of rescuing the funding principle and promise that was enacted into law in 1964, when the Land and Water Conservation Fund was created as a kind of quid pro quo for expanded drilling in the outer continental shelf.

As a number of people, including Senator Landrieu, for example, and Representative Young, have commented that principle and promise was to use the royalties generated by exploitation of nonrenewable oil and gas to provide permanent protection for other natural resources.

That said, while the bills have that in common, I would like to use my few minutes here to focus on a handful of serious flaws in the legislation. I will focus primarily on S. 2123, the likely markup vehicle, I assume. These are flaws that we think require correction before any law is signed into being.

We think that all of the components necessary for an excellent piece of legislation are present in the various bills that are before this committee, or otherwise offered. What is necessary is to combine them in a way that maximizes the conservation benefits.

Looking first at Title I of S. 2123, I will not dwell on this, but our coalition has been very concerned about the incentives that are in S. 2123 for additional drilling, especially off the coast of Alaska.

I will not dwell on it, Mr. Chairman, because Representative Young promised the President that he would take those incentives out. Indeed, he and Representative Miller did take them out, when the bill came to the House Floor. So those incentives are not in the legislation now, for all practical purposes.

A second problem, though, with Title I has to do with the usage of the funds. We are very concerned, in this case, that there is a great potential here to violate the basic conservation principle of the bill.

That is that if you look closely at the legislation, while there are a number of good environmental uses that are possible, it is also possible that the seven OCS states could spend approximately $730 million on infrastructure, environmentally destructive projects, such as making additional roads and additional piers, and what have you.

We do not think that was the purpose of the legislation. We encourage you to look at the approach taken in S. 2181, to assure that the projects that are funded by this legislation by Title I would all be environmentally friendly.

In the provisions in Title II of S. 2123 dealing with the Land and Water Conservation Fund, our chief concern here is that for some reason that we do not understand, 2123 singles out the Land and Water Conservation Fund, the Federal side of it, to be treated differently from every other program in the bill. For all other programs, annual funding is mandatory. But for Federal LWCF, there must be a specific appropriation.

We think there is no small amount of irony in this. I mean, after all, if you think back in 1964 when it was established as quid pro quo, the idea was that these funds would go into this fund and be dedicated to this purpose.

A number of speakers, as I mentioned earlier today, have commented on these. I think it was Mary Landrieu that commented that these funds had been hijacked. Representative Young commented about this, himself.

Yet, when you look at 2123, you will find out, for some reason, Federal LWCF is the only program for which funding is not mandatory in this bill.

I am pleased to say that a large number of the other pieces of legislation before the committee now and introduced on this subject, and also the President's budget Land Legacy proposal, all make this funding for Federal LWCF permanent and mandatory, or the equivalent, thereof. So I encourage this committee to look at that possibility, as they decide their position on this bill.

Finally, I want to turn to Title III of S. 2123. This is a new program that has a great deal of potential value that I think would be of interest to this committee. It creates a new program. It is kind of a revenue sharing program in the way right now that it is written, unfortunately. It is a program that provides $350 million per year to State fish and game agencies for wildlife conservation purposes.

This provision would be a lot better if it had the kind of planning requirements in it that a number of other people have called for. There are a majority of comprehensive bills that call for planning in this case. The White House, and Jamie Clark sitting here a little bit ago, said that it was important to them.

We have a letter that I want to submit for the record where 19 fish and game wildlife conservation agencies have banded together to call for this planning provision to be in the language. Yet, inexplicably, it continues to be missing from S. 2123.

I was very pleased, Mr. Chairman, in your letter to me of May 4th, that you indicated very strong support for this planning language. I appreciate it a great deal.

We are experiencing a growing problem with Endangered Species, and Jamie referred to that. At a time when the Congress can only find $180 million to fund ESA in the two agencies that oversee it, to provide a new program with $350 million per year, and not require that the States at least make a contribution to helping make sure that these imperiled species and imperiled habitats do not become endangered does not make any sense to us at all.

Nobody enjoys the kind of Endangered Species battles we have been in over the last couple of decades. But if we are going to get away from this, clearly, we need an upstream solution to the Endangered Species problem. The upstream solution has got to be one where the States who own our wildlife assume their proper responsibility. This is the kind of provision that can get that done.

Twenty years ago, this committee saw that. Under the leadership at that point, the chief author of the bill, John Chafee, put out a piece of legislation, the Fish and Wildlife Conversation Act of 1980, that became law, and gave grants to the States, and required them to do some planning to save non-game and at-risk species, to avoid the Endangered Species problem.

The planning language that was in that bill, Mr. Chairman, is almost exactly the planning language that is in S. 2181. I encourage this committee to strongly support that. I do not know what that provision does for this committee, absent that kind of language.

Thank you.

Senator SMITH. Thank you, Mr. Schlickeisen.

Ms. O'Brien of the Wilderness Society, welcome.

STATEMENT OF RINDY O'BRIEN, VICE PRESIDENT OF POLICY, THE WILDERNESS SOCIETY

Ms. O'BRIEN. Thank you. I appreciate getting the opportunity to testify today.

The Wilderness Society believes that the House passed legislation is a sound starting point for the Senate's deliberations. Along side our colleagues in the environmental community, we would welcome the opportunity to further improve the bill, as it comes through the Senate.

I think Senator Boxer outlined a lot of the concerns that we have, and the places where we would like to see some improvements. But we also clearly acknowledge that there has been substantial progress already made in balancing the competing interests.

Between 1987 and 1997, three out of every four dollars were spent elsewhere from the Land and Water Conservation Fund. Oftentimes, people have said that the environmental community has been too polite in not demanding that the funds that were promised by Congress, some 36 years ago, be spent for the purposes.

During this same period, the Land and Water Conservation Fund spent an average $230 million, or just 25 percent of the $900 million that had been authorized to flow into the fund.

There were some numbers presented earlier today about some arbitrary number of $450 million being picked out for this legislation. The fact is that the $900 million was authorized 35 years ago at that level to be split between the Federal side and the state side. It is not an arbitrary number that has just been calculated, looking at past numbers. If you are going to do that, you would go to $230 million.

Clearly, there is a need and there is an obligation to have acquisition under the Land and Water Conservation Fund, both on the Federal and state side.

There were discussions earlier today about dueling polls. As one of the organizations that actually hired Mr. Luntz to do the poll, I wanted to speak to something in my testimony that goes beyond dueling numbers.

That is what our voters are doing actually when they go the polls. These are not just research tools, but what they are actually voting on.

In 1998, 148 State and local open space measures were on the ballot; 124 were approved. That is a resounding 84 percent approval rate on these measures. Collectively, that represents $5 billion in public revenues to preserve America's open spaces.

The figures from 1999 are equally impressive, and this is in an off election year. Of 102 open space ballot initiatives, 92 were successful. That is a 90 percent success rate, and those 92 measures committed another $1.8 billion to public land acquisition.

So you can either accept or reject research tools. But what the voters are saying as they go to the ballot box around the country, consistently, is that they believe that the Government needs to be spending money to protect open space.

The Wilderness Society has three essential elements that they find crucial, as you move through this legislative process. First, the legislation must permanently remove the Land and Water Con-

servation Fund from the financial obligations that far too long have limited its effectiveness. This is the year to take the Land and Water Conservation off budget, once and for all.

A point that needs to be clarified from the morning debate, as well, is during the House debate of H.R. 701, it was amended to make it clear that expenditures under the legislation passed there would not occur if they diminish the funds available for Social Security and Medicare.

We have no dispute that these funds needs to be placed above those two acts. But we firmly believe that the efforts to protect our open spaces deserve the same protection that Congress has provided for the Highway Trust, and most recently for the Federal Aviation Trust.

If we can set aside money to pave it, we believe we can set aside money to save it.

Second, the Land and Water Conservation Fund needs to be fully funded. After years of diverting as much as 75 percent of the intended money of the Land and Water Conservation Fund, now is the time to make good on that promise.

Third, we believe the Land and Water Conversation Fund should move forward, unencumbered by new restrictions on how it operates.

I think that the committee members this morning from the House side went through all of the provisions that were in the House passed bill to protect property rights. We believe that that has established some changes that maybe go beyond where we need to, but we clearly believe we do not need to go as far as the Hill language, which restricts a non-net gain in these States. We actively oppose that.

Thank you.

Senator SMITH. Thank you, Ms. O'Brien.

Mr. Waller, Director of the Wildlife Resources Division, Representing the International Association of Fish and Wildlife Agencies, welcome.

STATEMENT OF DAVID WALLER, PRESIDENT, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES, DIRECTOR, GEORGIA WILDLIFE RESOURCES DIVISION

ACCOMPANIED BY:

WAYNE VETTER, EXECUTIVE DIRECTOR, NEW HAMPSHIRE FISH AND GAME DEPARTMENT

Mr. WALLER. Thank you, Mr. Chairman.

We appreciate the opportunity to appear before your committee today to share with you the collective strong support of all 50 State fish and wildlife agencies for the Conservation and Reinvestment Act or for CARE, as it is more commonly called.

Whether you hunt, fish, bird watch, hike, play soccer, or just enjoy the peace and tranquility of being outdoors, appreciating the vast natural bounty of our nation, this bill will ensure that our children and future generations will enjoy this natural wealth.

We urge your favorable attention to the Conservation and Reinvestment Act, and encourage your cooperation and assistance to Chairman Murkowski to facilitate a bill being expeditiously reported to the full Senate for its consideration this year.

The association strongly supports CARA, because it is a bipartisan consensus bill and common sense approach to conservation that makes good economic sense, good common sense, and good political sense.

The coalition of over 4,500 organization, and this has been brought out two or three times today, has really come together across the nation, and sounded a loud voice for conservation, in general.

Our goal is to bring dedicated, consistent funding to State-based fish and wildlife conversation programs, land and water conservation, coastal conservation and environmental programs, State and local outdoor recreation, historic preservation, and incentives for our landowners to continue good stewardship of their land in open space uses like farmland, ranch land and forest land.

CARA places decisions on identifying needs and spending priorities at the State and local level, which we believe can best reflect the interest of our citizens. It does that while giving greater protection than exists in current law to private property owners, with respect to Federal land acquisition.

The most significant benefit of CARA to fish and wildlife conservation is that State fish and wildlife agencies will finally be in a position to take preventive measures to conserve declining fish and wildlife species before they reach a status where they must be listed as endangered or threatened.

In this way, the State fish and wildlife agencies can work cooperatively with private landowners through voluntary, non-regulatory means, such as incentives, technical assistance, easements, and other such measures.

Preventative conservation now is an investment that will continue to pay dividends far into the future. It simply costs much less to conserve fish and wildlife species by responding to early warnings of decline than it does to recover those species, once they have been listed.

Let me share with you a few perfecting amendments that the association recommends for Title III. The first one, we would like to see the floor for minimum states increased from ½ to 1 percent. That would benefit 10 States, and yours is one of them, Mr. Chairman.

Senator SMITH. That got my attention.

[Laughter.]

Mr. WALLER. It would benefit 10 States that really need additional funding, because of the size and the population, and those kinds of things.

We would like to see a 5-year phase-in period, with 90 percent Federal and 10 percent State match, because right now, it is 70/25, as it is in Pittman-Robertson.

But many of the States would have a tough time coming up with a 25 percent match. We would like to have 5 years for the States to be able to develop that kind of match.

We would like to remove the 10 percent cap on wildlife-associated recreation spending. That really handicaps a lot of States very considerably, from State to State, and we feel like the States should have a role in that, and let us not put a cap on it.

We would like to reinstate the provision for up to 10 percent of the funds to be used for law enforcement. That was in the original bill. Law enforcement is an important component of wildlife conservation in the States, and we would like to have that prerogative to have some funding included for that.

We would like to see the wildlife conversation planning language included, as some of the other panelists have suggested. We think that is important. We work with many of the conservation groups around the country, and we think that is an important part of it.

We would like to see establishing a floor of $350 million, and a ceiling of up to 10 percent for the incoming OCS receipts, whichever is greater. This bill started out at 10 percent for the wildlife fund, which would roughly be $450 million. We would like to see a floor of $350 million, but allow it to go up, if OCS revenues increase.

In support of Director Clark, we would also like to see adequate funding to the U.S. Fish and Wildlife Service for delivering the CARA funds to the State. We think that is important.

I would just like to say, we all want to work with you and work together on getting this landmark legislation passed.

Thank you.

Senator SMITH. Thank you, Mr. Waller.

Mr. Vetter, the Executive Director of New Hampshire Fish and Game, do you have a comment or two?

STATEMENT OF WAYNE VETTER, NEW HAMPSHIRE FISH AND GAME DEPARTMENT

Mr. VETTER. Yes, I do. Thank you, Mr. Chairman.

Mr. Chairman, I have some written testimony, but in the interest of time, I will not read it. I just want to say thank you to you for the opportunity to be here and testify, and thank you for your support.

This CARA bill is good legislation. It proved that in the House when it passed so overwhelmingly. We, the directors of the State fish and game agencies, through our President, David Waller, and through the International Association of Fish and Wildlife Services have come up with some ideas to make a good piece of legislation better.

Those are offered to you in these amendments. We urge you to support those amendments, and pass this bill.

Thank you very much, again, for the opportunity.

Senator SMITH. Thank you very much, Mr. Vetter.

I was interested, Mr. Waller, in your term "perfecting amendments" suggestions. The problem is, there are those who suggest perfecting it in different directions. It makes our job a lot more difficult.

Let me just start off with a couple of questions, and we can just open it up here and finish the hearing this morning.

Mr. Schlickeisen, you said in your testimony that we must do no harm in enacting CARA. I would agree with you on that, although I believe that each of the Senate bills, I think you can make the case, would achieve great good.

The question I have for you is, do you support the passage of S. 2123 or the House bill in their current form; do you support either/or of those two bills, in their current form?

Mr. SCHLICKEISEN. I think of the two, I would prefer the House-passed bill, primarily because of what it does with the incentives issue in Title I.

But I think for the Defenders of Wildlife and for, I think, probably almost all of our coalition, we would not like to see any of them become law without some further improvements. Those improvements were the ones that I identified in my testimony.

Senator SMITH. But the House provided for basically a snapshot in time. It limits payments to the coastal States.

Mr. SCHLICKEISEN. Right.

Senator SMITH. Does that address your concern?

Mr. SCHLICKEISEN. I think it does. We are especially encouraged by the Alaska conservation groups that have helped our coalition groups examine this. They feel that that goes a long way toward solving the problem.

I do not think they ever think that incentives are totally removed. But the fact that they have not got a 5-year look-back here, so that it would encourage the State and the cities and the towns, and what have you, to see a pay-off down the road, if they accept drilling now, I think that that went a long to solving the problem.

Senator SMITH. And Ms. O'Brien, in the perfecting language issue, you indicated that the funds should be authorized without any restrictions.

Do you think that any of these bills, and particularly the House bill, has struck an appropriate balance, here?

Ms. O'BRIEN. Well, as my written testimony said, we believe that the language adopted, minus one amendment, the Hill amendment, that was ultimately adopted on the Floor, our improvements to ease some of the concerns of the private property side, we could stand by those changes, although we do not believe they all were necessary. But if they do go toward easing some of the concerns of the property rights, we are fine with that.

The Hill amendment, though, went a step further. It basically, as Senator Baucus went through this morning, first of all, singles out one State for treatment different than the other 50 States, which I think from a policy side is not good.

Second of all, we do not believe that the Land and Water Fund should be a question of trading one acre off for another acre. That was not the purpose of the Land and Water Conversation Fund.

We do believe in consolidation of lands. We believe in exchanges and easements. We do not believe you should have to trade on acre for another acre, just so it is a number game. You really need to look at what the resource is, and why you are acquiring it, or having it for easement.

So that provision is very troubling to us. The rest that was in the bill, as it went to the Floor, is fine.

Senator SMITH. Mr. Niebling, it is interesting that your group is representing, I do not know the number, several thousand essentially woodlot owners or owners of substantial pieces of property, and yet you are supportive of the bill.

I would agree with Mr. Hardiman on the concerns, that we should respect absolutely the concerns of private property owners. This is a substantial group of people who would have every reason to be concerned about any private property group. Yet, your group does support this legislation.

One of the provisions in the bill, and I think it is Title VII, provides that there would be grants to landowners to protect Endangered Species, if in fact you were stuck with a situation where you had some limited use of your land, because of an Endangered Species.

Would you agree that this is going to be helpful in promoting partnerships with landowners, and could achieve a real benefit here?

Mr. NIEBLING. Absolutely, Mr. Chairman. Like others who have testified this morning, we have all been troubled and frustrated by the tremendous difficulties in resolving the reauthorization of the Endangered Species Act.

I think in the last couple of years, a number of organizations, national, regional, and local, have begun to recognize that a more incentive-based approach, whereby Congress gives incentives to private landowners to manage their properties in such a way that they do not diminish their rights, necessarily, but they meet the interests of the Endangered Species in question, and it is the right direction to go in.

I know that you have been an advocate of provisions in Senator Kempthorne's bill, I believe, last year, which would have really focused on the role of incentives and more nonregulatory approaches to accomplishing the goals of the act.

So, yes, to answer your question, we think that is a good way to go, and support those provisions of the bill.

Senator SMITH. The bottom line is, without these modifications, any particular woodlot owner or member of your organization could be in a situation where they would not be able to do anything with their land, and at the same time, have may not be in a financial position to provide any help at all to enhance that species. So at some point, they could. Is that correct?

Mr. NIEBLING. That is correct. If I may, Mr. Chairman, for 8 years, I served as Executive Director of the New Hampshire Timberland Owners Association. While my current organization is not comprised entirely of landowners, there are a great many landowners.

You could say that I cut my teeth representing and advocating for the rights and responsibilities of private property owners. It is my firm belief that the legislation, as passed by the House, has instituted a number of provisions that will go a long way to addressing the issues and concerns of private property owners, which I think are very different in the west than they are in our part of the country.

If I may further, Mr. Chairman, you have my absolute commitment that if this legislation is enacted, it will be carried out in a way in New Hampshire that is supportive of and based upon the best interests of private landowners.

I think that is the New Hampshire tradition. I see nothing in this bill that would suggest any cause for concern, from our perspective.

Senator SMITH. Thank you.

Senator Boxer?

Senator BOXER. Thank you.

Mr. Hardiman, I am sure you feel very much in the minority on this panel, but I think that you gave your best presentation.

I have a couple of questions for you. On this property rights, it is my understanding, as I follow the legislation, that even some of the most ardent defenders of property rights in the House admitted that, in fact, they went out of their way to address the concerns.

If you heard Congressman Tauzin's presentation, for example, there can be no condemnation of land, as I understand it, which although it is very rarely used in every other act, we do not say you can not do it.

So that was, I thought, quite something. Then they also said that nothing in the bill shall impact private property rights or water rights. So I have great respect for your point of view, but I have a sense that your concerns were addressed here.

I also picked up, you said that the Gunowners of America did not support this bill. Is that what you said?

Mr. HARDIMAN. Yes, that is correct, and you have the testimony there.

Senator BOXER. Yes, because I see that the National Rifle Association does. I thought there was some connection between the two groups.

Mr. HARDIMAN. They are two separate organizations.

Senator BOXER. Well, I wanted to say on the record that the National Rifle Association, that I do not agree with, supports this bill. The National Shooting Sports Foundation supports this bill, and the North American Hunting Club.

So, again, I want to make the point, since guns are always an issue that, I guess, is agitated, it seems that most of the gun groups seem to support this, because in terms of recreation, it is going to do a tremendous amount.

I am going to ask you to comment on why you think I am misled here. Then I just have one other question for all the others that would just require a show of hands. So if you could answer that.

Mr. HARDIMAN. Yes, thank you, Senator, for the opportunity to respond.

Condemnation is prohibited on the Federal side of the Land and Water Conservation Fund. That is $450 million out of nearly $300 billion per year. There is no prohibition on condemnation for the other $2.5 billion per year.

As a matter of fact, in Title IV, the Urban Parks and Recreation, existing prohibitions on acquiring land are removed. Section 411 of S. 2123 removes the existing prohibition in UPAR for acquiring land. So this is prohibition on condemnation for $1 out of $6 that comes out of this bill.

Regarding the willing seller issue, actually, this is something that is nationwide. For example, there is plenty of money available under the current appropriations process, to buy out legitimately willing sellers.

The first time I saw the willing seller scam was actually in the New Jersey State legislature, for which I worked in the 1980's. There was Green Acres bond money, which is a very popular bond issue that was passed in New Jersey. That money went the Pinelands Commission, which oversees much of the pine barons in South Jersey. I worked for a State legislator, who represented a lot of that area.

They had money available to buy out willing sellers. The legitimate willing sellers that ask to be bought out were ignored. They took that money and went after people who were not willing sellers.

Anyone who wanted to do anything with their property, they had plenty of money to harass and buy out those people. But the legitimate willing sellers were ignored, hoping that they would stop paying taxes on the property, for example, and that they would be able to pick it up for peanuts at a tax sale, later on. So there are a lot of shenanigans that go on at the State and Federal level regarding willing sellers.

I can tell you what will happen on my property in Southern California. After this bill passes, I will have the Federal Bureau of Land Management, some entity in DOI, come to me and say, well, Mr. Hardiman, we will offer you $1 for your property. I will say, no, I am not interested in selling.

Then the State of California, using Federal CARA funds, will come to me and say, well, Mr. Hardiman, our appraiser says your land is worth 82 cents. If you do not sell, we are going to condemn you.

Senator BOXER. Is this in California, that land is worth 82 cents?

Mr. HARDIMAN. No, no, I am using this as an example; $1 versus 82 cents, so I am picking out a number. I am saying that for every $1 that DOI would offer me, the State of California might offer, for example, 82 cents on $1, for example, with a threat of condemnation.

I would then, voluntarily, become a willing seller to the Federal Government for $1, under threat of condemnation for, for example, 82 cents on $1. That is what a fraud the willing seller clause is, in this bill.

With the unprecedented fire hose of money from this bill, people will be forced into being willing sellers. Legally, technically, people like me will become willing sellers. Practically speaking, we will be in no way willing sellers.

Senator BOXER. Let me just say this, first of all, there can be no condemnation under the $450 million, we agree. No. 2, the other $450 million is States' rights, and the States will decide. I think most conservative members of the U.S. Senate think that probably the best way is to have the States decide.

No. 3, for the vast majority of the remainder of the bill, the moneys can not be used for land acquisition.

Mr. HARDIMAN. No, it can be.

Senator BOXER. Excuse me, sir, I will put that documentation into the record.

Clearly, there are titles of the bill that deal with PILT and other things that have nothing to do with land acquisition. So let us get

that straight. So your point that it is only a tiny percent that is impacted, I do not believe is correct.

The vast majority is State's rights and prohibition on condemnation, plus a statement clearly in the bill that this bill can have no adverse impact on property rights or water rights.

Outside of Mr. Hardiman, who I clearly get, does not want any bill, so I know he does not want any bill, I would ask the rest of you to help me out with a show of hands. I am going to give you about three options.

Do you prefer the House-passed CARA bill, the Murkowski/Landrieu bill, or the Bingaman bill? Do you all feel comfortable on that? If you have no preference, do not raise your hand at all, but try to tell me, because I think it is really important that I have the answer.

Let us start off with the House-passed CARA bill. How many prefer that?

[Show of hands.]

Senator BOXER. There are one, two three of you.

How many prefer the Murkowski/Landrieu bill?

[Show of hands.]

Senator BOXER. How many of you prefer the Bingaman bill?

[Show of hands.]

Senator BOXER. OK, thank you.

Let the record show, Mr. Hardiman does not want any of the bills.

Thank you very much.

Senator SMITH. Did somebody get those responses?

Senator BOXER. It is more for me than anybody else.

Senator SMITH. Senator Chafee?

OPENING STATEMENT OF HON. LINCOLN CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Thank you, Mr. Chairman, for holding this hearing, and for your interest in this subject. I would like my opening statement to be submitted for the record.

I would just say that I think we are in an historic moment in time, when we can finally fully fund LWCF, which we have been waiting for since 1965. We have a great opportunity to do that.

My experience, as City Councilman and Mayor, in a community that did go from dairy farms to department stores is that this a very good thing to be doing.

The most important way to control growth is to buy land, to buy the valuable land. Because in America, people do have the right to sell their land. Under zoning, they have a right to develop it.

The way to have wise growth, I think, is to have a very aggressive open space acquisition initiative in communities all across the country, whether it is Boise, Idaho or Salt Lake City, Utah, or wherever it might be, where we are seeing extraordinary growth.

We need to have these Federal funds available to make sure that growth is in everybody's best interest. So I am in favor of full funding, and I am also in favor of the flexible funding provisions.

My question would be, Mr. Niebling, I did not see you raise your hand on either or any of the three options. Is that true?

Mr. NIEBLING. Right, thank you, Senator Chafee. Please do not construe my reluctance to raise my hand as non-support. I guess there are provisions in all three bills that we like.

I indicated in my testimony that we support Senator Murkowski's legislation. I do not know if you were here when I spoke. But there were elements of Senator Bingaman's bill and the House-passed bill that we wanted to see incorporated into that legislation. So maybe I should have raised my hand on all three, but I am not sure.

[Laughter.]

Senator CHAFEE. I came in, just in the middle of your testimony.

Senator SMITH. Thank you, Senator Chafee.

Let me ask just a couple more, and then we can wrap up here.

Mr. Vetter, many of the programs funded through CARA do require the State or the local government to provide a match. Some critics say that the States will be unable to provide the necessary funds to take advantage of those programs.

New Hampshire does have such a fund that would enable them to provide that State or local match, as you know. Is this unique, and perhaps Mr. Waller could respond to this, also; do other States have established funds to provide this match?

Mr. VETTER. I believe, Senator, that we are unique. But I will refer that to Mr. Waller, because he is in touch with that.

Senator SMITH. Maybe Mr. Waller can tell me how many States have that.

Mr. WALLER. I think it will vary considerably, from State to State. Some States will not have any funding to work with. They will have to develop a funding source. Some States, you know, already have some in place.

So that is why we are suggesting going for the first 5 years with a 90/10 match, to give some of the States the opportunity to develop a funding source for their match.

Senator SMITH. Mr. Hardiman, I know you feel like you have been ganged up on, here. But I think you understand that there were some pretty articulate private property advocates on the first panel from the House side. So we have tried to give it as much balance as possible.

I, as a strong private property advocate myself, share some of your concerns. I do not seem to find in the language of the bills before me the concerns that you have. This is my difficulty.

I mean, right now, I am told there is about a $10 billion backlog on people who want to sell their land to the Federal Government. So whatever position you want to take, whether we should or should not do it, the point is, the funds are not there to do it, anyway.

So I do not know where we are coming up with taking land from unwilling sellers in this legislation. I am trying hard to understand that, because I do not want to do that. I will be very honest with you. I would not be supportive of the legislation if I thought that land was going to be taken from unwilling sellers or condemned.

So I am not trying to be hostile. I am just trying to understand where you are coming from. If you could be specific in terms of where these concerns are, I would like to try to address them.

Mr. HARDIMAN. Certainly, Senator, thank you.

The list of $10 billion worth of allegedly willing sellers, I have never seen or heard of such a list. I would like to see it. I am not familiar with that list.

I am familiar with, of course, the maintenance backlog issue, which opens at $5 billion, and goes up from there. That was covered in the March issue of "Government Executive Magazine" quite extensively.

I will give you a specific example of willing sellers being ignored, while an unwilling seller was gone after. In the national recreation area in Los Angeles in Ventura County in California, and I forget the name of it, but that area of the mountains north of Los Angeles in Ventura County, the National Park Service wanted to buy a parcel of land of private property owned; the guy's name was Donald Scott.

They repeatedly asked to purchase the land. When Mr. Scott refused, they trumped up a drug charge against him. They went to the Los Angeles County Sheriff's Department.

Senator SMITH. Who is "they?" Who did this?

Mr. HARDIMAN. The National Park Service did this. They went to the Los Angeles County Sheriff's Department. The National Park Service had no money to buy out the legitimate willing sellers. However, this is what they did to Mr. Scott, whose property they did want to buy, because it was on a mountain top.

They got together with the Los Angeles County Sheriff's Department, and raided Mr. Scott's house at 7 a.m. on a Sunday morning. Mr. Scott appeared at the top of the stairs with a revolver. They shot and killed Mr. Scott. His dying bleeding body fell down the stairs and landed at his wife's feet.

The widow then filed suit against the National Park Service and the Los Angeles County Sheriff's Department. Seven years later, just a couple of months ago earlier this year, the National Park Service settled for a $5 million wrongful death lawsuit.

The widow absolutely promises and Mr. Scott's children promise that they will never, never in 1,000 years sell that property to any Government entity.

When the National Park Service or other agencies want property, they find the money to go after it, while at the same time ignoring legitimate willing sellers.

That $5 million, of course, is money that will not go to land acquisition, since it is going to Donald Scott's widow.

Senator SMITH. Well, do you believe that in the purest sense, that there is ever a case where the U.S. Government should acquire either conservation easements or purchase land outright, for future generations?

Mr. HARDIMAN. The American Land Rights Association supports the current appropriations process, where everyone has a say. The American Land Rights Association have both agreed and disagreed, numerous times, with the authorizing and appropriating committees on the Senate side and on the House side.

Sometimes we win. Sometimes we lose. But the regular appropriations process is democracy. Trust fund is not democracy.

Senator BOXER. Excuse me, if you do not mind, Mr. Chairman.

Senator SMITH. Go ahead, Senator Boxer.

Senator BOXER. This bill subjects these purchases to the regular appropriations process. As a matter of fact, some of us feel that we would prefer that it did not go that far to do it.

But Congress can stop any of these acquisitions. That was one of the issues. That is why I like the Bingaman bill better because, frankly, I like the idea of a trust fund. Let the administration go. If Congress does not stop it, then let the funds go. But the way the bill came out of the House, Mr. Hardiman, it is subjected to the appropriations process.

Mr. HARDIMAN. There is one-sixth of the bill, only the Federal side of Title II, and that was money that must be spent. It no longer competes with other priorities; anything from illuminating the estate tax to Social Security to the core sole of the other education, all of the other priorities. So, once again, that is only one-sixth of the bill.

Senator BOXER. You keep going back to that. But if I just might say, that is the heart and sole of the bill, the $900 million, in terms of purchase. Half of it, as my Chairman reminded me, the States have the right to make those decisions. So that you would have to take up with the States, how they would handle their state-side money.

But the Federal money here which, again, you know, I have to just be honest with you, I prefer the trust fund notion that this Administration, whichever, Republican or Democrat, can put the list out and go for it. That is not going to happen here. It subjected to the appropriations process.

Thank you, Mr. Chairman, for yielding.

Senator SMITH. Senator Chafee, do you have any further questions or comments?

Senator CHAFEE. The only one would be, again, to Mr. Hardiman. My experience is that the most heavy need to purchase land is when the developers are coming in. That is when the community usually rises up, and wants to buy that land, before it is turned into whatever it is zoned for, commercial, industrial, residential.

That has certainly been my experience. As we see changing demographics, I just think that having these funds available, all across the country, it is just in everybody's best interests. I suppose there are those isolated incidence of hostile actions. But I think there were extremely isolated.

Mr. HARDIMAN. I would respectfully have to obviously disagree. I would say hostile takeover might be more accurate. It appears to be many times in everyone's interest to buy a piece of land, except for the landowner.

Senator SMITH. Well, let me just thank the witnesses for being here today. I know that many of you traveled long distances. We appreciate it.

Dr. Sparrowe, I would say that you have got the appropriate name for the organization you are with.

[Laughter.]

Senator SMITH. You have probably heard that before.

Mr. SPARROWE. I have.

Senator SMITH. I am going to close on a statement that I did not get the opportunity to make, early on. If witnesses need to leave, please feel free to do that as I am speaking. It is all right.

I just want to say that there has been some discussion about the jurisdiction on the committee. There is a overlap in jurisdiction between the Energy and Natural Resources Committee, here in the Senate, which has primarily jurisdiction.

Several of the programs, however, as Senator Boxer and I were just discussing, were affected by this bill, and are under our jurisdiction, such as Pittman-Robertson, Endangered Species act. They are within our jurisdiction.

So it is our committee's responsibility to review this legislation, although under the rules, we can not mark it up. But it is appropriate for us to review it.

You heard considerable testimony today on three bills: S. 25, S. 2123, and S. 2181. They have been introduced in the Senate, to fund various conservation programs. We talked a little bit about the House bill. The issue has received a lot of attention.

Certainly, with the passage of the House bill under the leadership of Congressmen Young, Tauzin, and Miller, in a bipartisan manner, by a margin as was stated here of three to one, I think that is an incredible effort on their part.

The bill in my State, as I think you could tell from the witnesses that are there this morning, and also in my travels and meetings that I have held over the past 6 weeks in New Hampshire, has broad support among the constituents of New Hampshire.

I have heard from the New Hampshire Society of Forests. You have heard from the Fish and Wildlife representatives here, and I have heard from many others that there seems to be overwhelmingly a strong majority support, if you will, on the concepts of the bills. There may be some refining that we have to do, but there is broad support.

You know, I am a conservative Republican. I think most people know that. I do not think there is anybody that has been more fiscally responsible than I have. I want to make a few points here, though, that I believe need to be made.

I want to say, we have heard from Washington, over and over again, that there is not any money available for conservation programs. There is always money available for something else, where it is Americorps or whether it is taking the Department of Education from $3 billion to $34 billion in 15 or 20 years. There is money for everything else.

They have also said, well, conservation is not up to the Government, or it is not up to the States, or it is not up to the local government or the Federal Government. It is up to the landowners. Let them bear all the burden.

Well, they are the stewards, and I support that. They are the stewards of saving our land and resources, but sometimes, they need help. I think Mr. Niebling brought that point up very well.

It is time now for the Federal Government to help out here. We have not been doing our fair share. The Federal deficit is now gone, and the budget is balanced. However, we do have a huge national debt, and that is not going to be paid off in the short term. It will be paid off, if we continue to manage wisely our budget.

But we have to think about not the next election, not 10 years from now, but generations from now. I have said, over and over and over and over again, since I have assumed the Chairmanship

that environmental policy is not about the next election. It is about the next generation.

Environmental policy, although it is good politics, sometimes, the Democrats have done a good job of politicizing this, frankly, and we deserve a lot of the attacks that we take.

But we have a unique opportunity to use outer continental shelf revenues on the programs that they were originally intended to fund, plus several other conservation programs that have been underfunded.

Now the issue that Senator Bennett brought up, which is a good one and fair one, about all of these trust funds, off budget; fine, if we want to take all of the trust funds off budget and deal with it through the appropriations process, fine, but let us not pick some, rather than others.

Highways are no more important than preservation of land. Some would say they are less important. I am not going to make that case, but I am going to say they are no more important than preservation of land.

You talk about urban sprawl. Why is there urban sprawl? It is because we have a place to sprawl to, and with no regulations. That is a new term.

It is time to keep the promise that we made years ago to the OCS revenues, responsibly, and put some of those dollars back to what they were intended to be for. That is all we are asking to do.

We do not owe it to ourselves necessarily, as much as we owe it to the future generations. We have to make decisions today that are going to impact the future of this country.

I have sat here for 20 years almost in this Congress, and I have fought hard to get that budget balanced, to get the deficit eliminated, and to pay off that debt. If my votes had prevailed, it would have been paid off 10 or 15 years ago, and we would have had more money to deal with things that matter: infrastructure, environmental programs in this country, environmental land, preservation and clean-up.

That is what this is about. That is what this debate is about. It is not about CARA. That is an acronym. I do not care about the term. That is not what this is about.

We heard a lot of good people talking today, from all across the political spectrum. I never thought in a million years that I would, and I do not think Barbara Boxer did either, see George Miller and Don Young on the same side of an issue, let alone sitting at the same table.

[Laughter.]

Senator SMITH. It does indicate there is support. Now some would say, maybe it indicates there is something wrong with it. Well, we will look it. We will look at that very carefully.

[Laughter.]

Senator SMITH. But the bottom line is, Americans like to spend time outdoors, especially in this high pressure situation we have. It is true that our parks are not maintained, and we need to do something about that. There is no question about it.

We all have our preferred vacation spots, whether it is Yosemite or Yellowstone. I honeymooned in Yosemite, by the way. Almost all Americans, probably as high as 90 percent, believe we ought to be

spending more money, not less, not necessarily at the Federal level, on protecting our water and protecting our land, our parks, our seashores, and so forth.

There is a growing consensus, and I am one of them, and you can say, oh, I have had an evolution. Well, I am the same guy I was 20 years ago. But we now have an opportunity to do something about it that we did not have the opportunity to do earlier.

We have to act now, not tomorrow but now, or we are going to lose some very special places in this country. It is time we stand up and realize it. We are going to lose the Everglades. We could lose the Arctic National Wildlife Refuse. There are a lot of places that we can lose, and a lot of small woodlots, which is what CARA is about, and other small pieces of property, all across America.

I agree with those Americans in those polls, and I am not government by polls. If it was the other way around, as you have heard with me on the Elian Gonzalez case, where it was 70/30 against my position, I still stuck to my position, because I was right, and history will prove it.

[Laughter.]

Senator SMITH. I want to do what I can to ensure that those areas remain for our children and our grandchildren. That is what this is about.

Now as we have heard, each of these bills has been introduced in the Senate, including the one introduced by Senator Boxer last week, as a companion to the House passed bill. There is plenty of opportunity to debate these, to blend them together, if you will. But the time is right to pass this kind of legislation, because we do owe it to our future generations.

Numerous States have been struggling for years to preserve open space, limit urban sprawl, provide residents with a better quality of life, with virtually no assistance, nothing from the Federal Government.

Now it is time, in my view, for the Federal Government to step up to the plate and assist, not to land grab, not to take land from unwilling sellers, not to put easements on properties that owners do not wish them to be on; but rather to do the right thing to assist the States and the landowners.

Why are we holding this hearing? I just indicated that because we do have the jurisdiction to do it. I regret to say that a couple of my colleagues were upset, saying that we were infringing upon somebody else's jurisdiction. I get a little tired of hearing that.

We ought to air these issues. If we can air them here, then that is good and that is positive for the issue, for the proponents, as well as the opponents, as far as I am concerned.

Let me just conclude on the private property rights concerns. Several of our colleagues raised these concerns, I thought very eloquently. I share their support for the rights of landowners and their concern that there should be limits on Federal acquisition of land.

I believe that some of those concerns are misplaced. I am prepared to take a hard look at where those concerns are raised.

Senator Murkowski in S. 2123 and the House bill that was passed a few weeks ago, addressed many of these concerns, or at

least so I thought. Contrary to popular belief, S. 2123 contains no new Federal land acquisition programs, that I know of.

In addition, S. 2123 provides an unprecedented level of protection for the private landowner. We heard that from private landowners here today.

For example, funds from this bill can not be used by the Government to implement regulations on private property. All too often, the Federal Government places so many restrictions on private property that the owner can no longer use it. This bill prevents that unfair and probably unconstitutional practice. That is the way I read it. If I am wrong, I will be happy to listen to the opposition on that.

Under the Murkowski bill, for example, any Federal acquisitions of land through the Land and Water Conservation Fund would also be subject to significantly more restrictions than under current law. In fact, this bill helps landowners who have Endangered Species on their land, as you brought out, Mr. Niebling, today.

So in conclusion, let me just say, I will stack my record up as a fiscal conservative against anybody. If somebody wants to match it, then let us talk about it, and we will see who has been the most conservative around here.

We made a promise, and we ought to keep that promise, whether we make it to the Social Security recipient, or the veteran, or whether we made a promise to the lease and oil gas rights on the outer continental shelf, to dedicate a portion of the revenues to the environment. That is why they are paying that money.

Now if we do not like that and we want to get rid of all trust funds, then let us talk about that. But let us not single out certain trust funds, as opposed to others, because the environment is not less important than airports. It is not less important than roads or anything else. You might say it is as important, but it is not less important.

This is no different than the Highway Trust Fund. We have not lived up to that promise in this time of budget surpluses, and it is time we do.

So fulfilling our commitment to use revenue generated from offshore oil drilling to preserve the environment elsewhere is a balancing act, and it has been out of balance too darn long. We have been taking without giving.

President Teddy Roosevelt summed it up when he said, "I recognize the right and duty of this generation to develop and use natural resources of the land. But I do not recognize the right to waste them, or to rob by wasteful use the generations that come after us." That is what this debate is about.

Thank you.

Senator BOXER. Mr. Chairman, may I just compliment you mightily on your statement. I am so please. I think they may have Miller/Young over there, but we have got Smith/Boxer over here.

[Laughter.]

Senator BOXER. Let me tell you, this issue is either going to make us loved or something. But I am just so absolutely pleased to hear you make that very heartfelt statement. I know, because we have worked together on animal protection before, that when

you feel deeply about something, you are going to be there for this fight.

I think we are going to have a bit of a battle. But with your help, I just think we are going to see the light of day. So I am very encouraged. I thank you for that statement.

Senator SMITH. Now if you could just join me on a few other issues, we would be all right.

[Laughter.]

Senator SMITH. Thank you very much to the witnesses. The hearing is adjourned.

[Whereupon, at 12:40 p.m., the committee was adjourned.]

[Additional material submitted for the record follows:]

STATEMENT OF HON. BOB SMITH, U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE

Good Morning. Thank you for joining us here today to discuss the bills that have been introduced in the Senate to fund various conservation programs, including the Land and Water Conservation Fund, from oil and gas production on the Outer Continental Shelf.

This issue has received a lot of attention lately with the passage of a companion bill in the House, under the leadership of Congressmen Young, Tauzin and Miller, by a margin of three to one. I want to congratulate them on their effort.

I have heard from many constituents in New Hampshire, and the overwhelming majority strongly support the concepts in these bills. For years now, they have heard from Washington that there isn't any money available for conservation programs and that it's up to landowners to bear the burdens of saving our land and resources. Well, those days are over. Now, it's time for the Federal Government to contribute its fair share. After many years of tightening our belts, the Federal deficit is under control. We have a unique opportunity to use Outer Continental Shelf revenues on the programs that they were originally intended to fund, plus several other conservation programs that have been woefully underfunded.

It's time to keep the promise we made years ago to use OCS revenues responsibly to put back some of those dollars into restoring and protecting the environment. We owe it to generations of Americans yet to come.

It isn't often that you get Congressman Don Young from Alaska, Billy Tauzin from Louisiana, and George Miller from California to agree on environmental legislation. I'm willing to bet it's the first time that those three have come before this committee to testify in support of a single bill. That's a reflection of just how much broad, popular support there is across the country for preserving our natural resources whether they are small urban parks or pristine wilderness areas.

The bottom line is that Americans like to spend their time outdoors. Over half of all Americans will tell you that their preferred vacation spots are national parks, forests, wilderness areas, beaches, shorelines and mountains. And almost all Americans 94 percent believe we should be spending more money on land and water conservation because parks, forests and seashore provide an opportunity to visit areas vastly different from their own. There is a growing consensus that we must act now or we will lose many special places, and if we wait, what is destroyed or lost will be gone forever. I agree with those Americans who enjoy the special places that make America unique. I want to do whatever I can now to ensure that those areas remain for our children and grandchildren.

As we have heard, each of the bills that has been introduced in the Senate, including the one introduced by Senator Boxer last week as a companion to the House-passed bill, provides permanent funding to the Land and Water Conservation Fund, as well as a number of other important conservation initiatives, through Outer Continental Shelf revenues. I believe the time is right to pass this kind of legislation. We owe it to future generations to do what we can to preserve and protect our scarce and unique resources. Numerous States have been struggling for years to preserve open space, limit urban sprawl and provide residents with a better quality of life, with virtually no assistance from the Federal Government. It is time for the Federal Government to step up to the plate and assist the States in their efforts.

Many of you may be wondering why the Environment and Public Works Committee is holding a hearing on these bills considering that they have been referred to the Energy and Natural Resources Committee. While the Energy Committee has

primary jurisdiction, several of the programs affected by the bills, such as the Pittman-Robertson Act and the Endangered Species Act, are clearly within our jurisdiction. As the committee with jurisdiction, it is our responsibility to review the proposed changes to those programs and, based on the committee's institutional expertise, make recommendations as to any amendments that may be appropriate. Next month, the Energy and Natural Resources Committee plans on holding a markup. As most of you know, earlier this year I cosponsored S. 2123, a bipartisan bill introduced by Senators Landrieu and Murkowski. Since no bill is ever perfect, I look forward to working with Senators Murkowski and Landrieu to make several improvements that will address the needs of small States such as New Hampshire.

Earlier, several of our colleagues from the House raised concerns about the potential impact of these bills on private property rights. While I share their very strong support for the rights of private land owners, and their concern that there should be limits on Federal acquisition of land, I believe that some of their concerns may be misplaced. I believe that Senator Murkowski, in S. 2123, and the House, in the bill passed a few weeks ago, have addressed many of the legitimate concerns that were raised by the property rights community. Contrary to popular belief, S. 2123 contains no new Federal land acquisition programs. In addition, S. 2123 provides an unprecedented level of protection for the private land owner.

For example, funds from this bill cannot be used by the Federal Government to implement regulations on private property. All too often the Federal Government places so many restrictions on private property that the owner can no longer use it. This bill prevents that unfair and probably unconstitutional practice.

Under the Murkowski bill, any Federal acquisitions of land through the Land and Water Conservation Fund would also be subject to significantly more restrictions than under current law. S. 2123 requires Congressional approval of all Federal acquisitions, notification to the local communities, and prohibits the condemnation of land unless Congress directs otherwise.

In fact, this bill helps landowners who have endangered species on their land. For the first time, private landowners will be able to apply for a grant to assist in the recovery of endangered of threatened species on their property. In other words, they would be eligible to get compensation for some of the conservation measures that they now have to pay for themselves. In my opinion, that is a big step forward.

The programs funded in S. 2123 have worked well throughout the years. One in particular is the Land and Water Conservation Fund (LWCF) state-side matching grant program. I have long supported this program, and have worked tirelessly for the past several years to ensure that some funds are appropriated. States rely heavily on this program to purchase much needed recreation areas and facilities. Since the LWCF's creation in 1964, the state-side matching grant program has funded more than 37,000 projects and conserved approximately 2.3 million acres. This program should serve as a model because the decision to conserve land is made at the local level. Who better to know what lands should be preserved than the people who live there.

There are many good provisions in this legislation. I am pleased to be a cosponsor of S. 2123. I look forward to working with Senators Murkowski and Landrieu to make further improvements to the bill and to do what I can to help pass this historic piece of legislation.

I would also like to take this opportunity to extend my appreciation to Wayne Vetter, Executive Director of the NH Fish and Game Department, and Charlie Niebling of the Society for the Protection of N.H. Forests. I appreciate their taking the time to come here today to testify in support of these bills.

In closing, I think it is important to remember that it is not anti-conservative to be pro-environment.

I'll stack my record as a fiscal conservative up against anyone's. We made a promise when we decided to lease oil and gas rights on the Outer Continental Shelf to dedicate a portion of those revenues to the environment. This is no different than the highway trust fund. We haven't lived up to that promise. In this time of budget surpluses, I believe it's about time we do.

Fulfilling our commitment to use revenue generated from offshore oil drilling to preserve the environment elsewhere is a balancing act. Unfortunately, for too long we have been taking without giving. I believe that President Teddy Roosevelt summed it up best when he said: "Conservation means development as much as it does protection. I recognize the right and duty of this generation to develop and use natural resources of the land; but I do not recognize the right to waste them, or to rob, by wasteful use, the generations that come after us."

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Mr. Chairman, thank you for calling this Hearing today on CARA. This is a very important issue to this committee and my subcommittee, since it deals with both the Outer Continental Shelf and private property rights. I appreciate you inviting Mr. Hardiman with the American Land Rights Association at my request, although I believe he is outnumbered here. I know the Farm Bureau and the Cattlemen are opposed to this bill as are numerous property rights groups.

I have serious reservations about this legislation and I can not support it as currently drafted. While the goals of protecting and preserving land are certainly commendable, this bill just has too many problems.

1. On the Budget side, we should not be taking $3 billion off-budget. It is not fiscally responsible. This bill creates a mandatory program in which $2.4 billion is spent with no oversight by Congress through the appropriations process.

2. The bill is primarily concerned with acquiring new land. It does nothing to address the maintenance backlog on existing National Parks and other Federal lands which is estimated at $15 billion. In fact it will make the problem worse since we will not be able to afford the maintenance on the new lands purchased.

3. Property rights for private citizens are not protected. The few protections that are there only apply to $450 million of the total $3 billion per year, and in fact Title 4 actually repeals some existing property rights protections involving condemnations in urban areas.

4. The Federal Government already owns and controls too much land, particularly out West. Overall the Federal Government owns over 30 percent of all land, and that does not include States or local governments.

5. Finally, while I understand that States and localities will receive funds for projects, it should be noted that the Federal Governments will have a dramatically increased role in local decisionmaking. Cara requires the Federal Government to review and approve most of the plans the States submit for the use of CARA funds. I have serious concerns with the Federal Government making planning decisions for Oklahoma.

I hope this bill does not come before the Senate in its current form. There are too many budget problems and we would be trampling on the rights of individual property owners. I look forward to the testimony.

STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM THE STATE OF WYOMING

Mr. Chairman, I appreciate this opportunity to discuss the Conservation and Reinvestment Act bills currently pending before the Senate Energy and Natural Resources Committee.

As you know, there are a number of legislative proposals pending before Congress which would use the outer continental shelf (OCS) revenues to help fund the Land and Water Conservation Fund (LWCF) and various conservation programs. Senator Murkowski's bill, S. 2123, is the likely legislative vehicle moving in the Senate, so I will focus my comments on that bill. However, my major concerns with S. 2123 can also be associated with the other related measures.

While some of the goals of this legislation may be laudable, I also have several major concerns about the bill's language and its impact on private property rights. We need to continue working to reduce the number of inholdings on public lands throughout the West, including our national parks. However, rather than purchasing these areas, as proposed under S. 2123, I believe we should work to coordinate land exchanges that will allow us to reduce these inholdings without increasing Federal land ownership. I do not believe we should take any action that would reduce the already limited amount of private property in my State.

I remain concerned about protecting private property rights and tax bases and still have concerns about the lack of protection against Federal land grabs in S. 2123. That is why I will seek to amend S. 2123 when it is brought before the Energy and Natural Resources Committee next month.

My amendment would limit the amount of private land the Federal Government could acquire in States where 25 percent or more of the land is federally owned. Additionally, when the government purchases 100 acres or more, it would be required to sell back into private ownership land of equal value in the same State. Since 50 percent of Wyoming is already owned by the government, I am concerned about adding more federally owned land to our State that might be restricted for specific uses. Without successfully attaching my "No Net Loss Of Private Lands" amendment, S. 2123 has little if any chance of passing.

S. 2123 would also result in $45 billion in new entitlement programs over the next 15 years, increasing the difficulty to control spending by the Federal Government. Creating $3 billion in yearly permanent appropriations, which is not subject to review by Congress, allows the Administration too much discretion with Land and Water Conservation Funding (LWCF). Authorizing large permanent appropriations will require Congress to find offsets and place restrictions on other public land programs.

Over the past year, the National Park Service, Forest Service and BLM have all given estimates to Congress of backlog maintenance needs of several billion dollars each. We do not need to increase Federal lands' responsibilities, we need to ensure land managers take care of what they already have.

The Senate Energy Committee has scheduled a markup of S. 2123 and I will be working with my colleagues to address the concerns I have raised. However, significant changes must be made to the bill to ensure that private property rights are protected and budget problems are addressed before it will gain my support.

Mr. Chairman, I will continue doing everything I can to return a sense of fiscal responsibility to this debate and protect private property owners in Wyoming as consideration of this issue continues.

STATEMENT OF HON. MIKE CRAPO, U.S. SENATOR FROM THE STATE OF IDAHO

Mr. Chairman, thank you for holding this hearing. Although the CARA bills have been referred to the Senate Energy and Natural Resources Committee, many of the provisions of this bill fall within the jurisdiction of the Environment and Public Works Committee. As such, I appreciate the opportunity to further discuss the merits and flaws in these bills.

First, I would like to recognize the presence of Representative Helen Chenoweth-Hage of my State and thank her in advance for her testimony. As chairman of the House Resources Subcommittee on Forests and Forest health, Helen is acutely aware of the existing needs of our public lands and I welcome her testimony—not to mention her passion for private property protections.

I also appreciate seeing so many of my good friends from the House here to testify on these bills. It is a rare treat and truly an indication of the magnitude of this effort.

Let me begin by saying there are many very good provisions in each of these bills. I support many of the items in these bills and have participated in past efforts to secure funding for them, and I will continue to support many of these projects.

However, I have concerns about the mandatory spending requirement and the impact on budget priorities. For example, in Southern Idaho, in the Sawtooth National Recreation Area, securing LWCF funds for scenic and conservation easements has been one of my priorities. Nonetheless, it must be considered as a reasonable priority-a reasonable priority within the constructs of a balanced budget.

I am also concerned by the failure of these bills to address the sizable maintenance backlog on our public lands. The recent fire in Los Alamos underscores the danger of failing to actively maintain our public lands. The cost to mitigate the damages, and restore the ecosystem could have been prevented. There are more than 39 million acres of National Forest System Land in the West that is in danger of catastrophic fire. Many more millions of acres are at risk from insects and disease. Is acquisition more important than adequately maintaining our existing lands, particularly when the agencies estimate a maintenance backlog of anywhere between $14 and $20 billion.

Should not taking care of our existing lands be given a priority when we talk about adding to the Federal inventory, especially when the Federal Government has not proven to me that it is a better steward of the land that private property owners? Federal ownership of land is not necessary for private property owners to achieve recreation or environmental goals on their own land that benefit the public.

I also have unresolved concerns over the private property provisions in the bill. In Idaho, the Federal Government owns over 63 percent of the land. Understandably, many Idahoans are skeptical of further ownership in the State and how that land may be acquired. Additionally, the impact on counties when property values are reduced or taken off the tax roles is important to note. Payment in Lieu of Taxes has not been fully funded and when we talk of acquiring more public lands, it is incumbent upon us to first address this shortfall. I share the concerns of numerous Idahoans regarding the impact of public land ownership and look forward to future discussion of these issues.

Many of the goals of these bills are laudable. They are reasonable objectives, but like many reasonable policies, they must be considered in the context of all our priorities and obligations.

That said, I appreciate the efforts my colleagues have made in crafting these bills, and as chairman of the subcommittee on Fisheries, Wildlife, and Water, I am keenly interested in its goals and provisions. I look forward to working with my colleagues on both the Environment and Public Works Committee and the Energy and Natural Resources Committee on these bills.

Again, thank you, Mr. Chairman. I look forward to hearing the testimony of the panelists.

STATEMENT OF HON. LINCOLN CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Thank you, Mr. Chairman, for holding this hearing on these very important bills pending before the Senate. I can think of few environmental issues facing this Congress more important than efforts to conserve open space. This Congress has an opportunity to make some critical investments in our nation's natural resources, and I hope that we can take advantage of this opportunity.

The notion that revenues from the depletion of oil and gas resources should be reinvested into our natural resources is not a new or revolutionary idea. Congress recognized the wisdom of this idea in 1964, and passed the Land and Water Conservation Fund Act. In 1986, President Reagan's Commission On the American Outdoors reported that:

"Preservation of fast disappearing open space, investment in rehabilitation of deteriorating facilities, getting ahead of urban growth as it runs across the land—these are actions which cannot wait, but must be taken now, for tomorrow they will be more expensive, or, in some cases, impossible."

For the past 40 years, many in and out of the Federal Government, have talked about the need to increase investment in the Land and Water Conservation Fund, efforts to conserve fish and wildlife, historic preservation and park restoration activities. I think we have had sufficient talk, and now is the time to act.

Immediate action is necessary because the current opportunities to conserve land and recover threatened and endangered species will not exist in 10 or 15 years. As a city council member for 4 years, and a local mayor for the past 7 years, I have witnessed firsthand the conversion of dairy farms into department stores. My experience in local government has taught me that the most critical element of controlling growth is the wise acquisition of valuable open spaces. We don't want the developers to have it all! And I am sure that this sentiment is true in every State. In fact, in 1998, over 200 ballot measures were approved across the country for green space acquisition. And this year, the State of Rhode Island has proposed a $50 million bond initiative for open space acquisition for the next 20 years. Many local and State governments desperately want to conserve and protect their precious natural resources areas. Unfortunately, existing funding is not enough to accomplish the enormous task at hand. The Federal Government must become involved in these efforts. If Congress fails to act, we will continue to develop some of our most precious natural areas, and we will continue to witness a decline in open space, endangered species, recreational opportunities and our quality of life. This issue is about our legacy to future generations, and our failure to act will be costly.

While I strongly support the goals of the bills before us today, I also believe that we can improve on the proposals. I urge the following principles be incorporated in any bill that passes the Senate.

State lines do not trace ecosystems and some of America's most important natural areas—the Northern Forest of New England, the Mississippi Delta, and the Great Lakes—are not contained in one State alone. This fact makes it difficult—particularly for small States like those in New England—to preserve treasures like the ones I just mentioned. The addition of a flexible funding component to the LWCF could provide additional money that could be used by an individual State for a costly project of national significance, or by a group of States for preservation of areas that spill over State boundaries.

We should also avoid creating incentives for off-shore oil drilling, and ensure that moneys earned from the nation's environmental resources ought to be reinvested into other natural resources as envisioned by the original 1965 bill—not used to build more roads or lay new sewer lines. I recognize that there are legitimate infrastructure impacts in OCS producing States that need to be addressed, but I also believe that a significant portion of the funding should be allocated toward mitigating the adverse impacts of OCS production on the environment.

We also need to make greater investments in the protection and recovery of endangered species and place greater emphasis on conservation efforts that will prevent other declining species from being added to the Threatened or Endangered lists. The value of open space is not only in the land, but also the wildlife that the land sustains. Current funding for wildlife conservation and management efforts should be increased for threatened and endangered species, and indeed for all wildlife—game and non-game species.

I want to thank you once again Mr. Chairman for holding this hearing on such an important and timely environmental issue. I look forward to the testimony of the witnesses.

STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Thank you, Mr. Chairman.

First, I want to thank all of those whose leadership has brought us this far.

In the House, it's been the work of Congressman Young, Congressman Miller, and others.

In the Senate, it's been Senator Murkowski. And Senator Bingaman, who has written a very good bill that I am proud to cosponsor.

I want to pay a particular complement to Senator Landrieu. I don't agree with every provision of her bill. But she's been a determined and articulate advocate, pressing her case at every opportunity.

There's not much time left in this session of Congress. But, if we roll up our sleeves, and work together, we can pass a solid lands legacy bill. A bill that not only is good for coastal States, like Louisiana, Alaska, and California, but that also is good four the entire nation, including the west.

From the western perspective, some folks are concerned about the impact that they think these bills might have on private property rights.

We may have differences about that.

But there's a lot that we ought to be able to agree on.

For example, all of the bills would increase funding under the Pittman-Robinson Act, which supports State conservation programs.

All of the bills provide financial incentives for landowners to take voluntary steps to improve the environment, such as through conservation easements.

The Bingaman-Baucus bill would provide funding for voluntary agreements with landowners to protect endangered species, which is critical to making the Endangered Species Act work better and achieve more widespread support.

And the Bingaman-Baucus bill would fully fund to make payments in lieu of taxes, to offset the impact that Federal land ownership has on our local tax base.

These are important improvements.

Mr. Chairman, with the legislation before us today, we have an important opportunity. We can write a solid, bipartisan bill that leaves our children and grandchildren a legacy, in the tradition of one of your heroes, Theodore Roosevelt.

We must not let the opportunity pass.

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Mr. Chairman, I am pleased that the committee is holding a hearing on such an important issue, and I look forward to hearing the views of our distinguished witnesses. I strongly support legislation to establish permanent funding for the protection of our precious natural resources.

Enactment of this critical legislation would make an enormous difference in the legacy we leave to future generations of Americans. I am pleased to say that I am a cosponsor of S. 2181 sponsored by Senator Bingaman, as well as S. 446 sponsored by Senator Boxer.

Over the past 30 years, appropriations from the Land and Water Conservation Fund have purchased three million acres of land for the national park, forest, and refuge systems. And States have purchased another two million acres with grants from the Fund. However, we must do more. It is critical that we establish a secure long-term source of funding for conservation activities.

In the past several years, this program has often received less than one-quarter of the total authorized level, with no funding going to the State and local portion of the program between 1995 and 1999.

Congress' failure to fully appropriate LWCF funds has delayed the purchase of tens of millions of acres of land for previously authorized park projects.

These delays typically result in higher prices for the land when it is ultimately acquired, and natural resources' values are often lost or degraded in the interim.

If we are going to make a significant investment in our nation's natural resources and preserve our open spaces, a dedicated revenue stream is essential.

Currently, we have a $10 billion backlog in Federal land acquisition needs that includes areas vital to conserving wetlands, watersheds, and wilderness; protecting refuges and habitat; preserving important historic and cultural sites; and providing trails and open spaces for outdoor recreation. If these national treasures are not protected, they may be lost forever.

In addition to critical needs in the area of land acquisition, the bills before us fund many other essential environmental programs, including wildlife conservation, the Urban Park and Recreation Recovery Program, historic preservation and coastal protection.

Mr. Chairman, unrestrained development is putting pressure on our existing public lands. Urban and suburban sprawl and the loss of open space have become primary concerns for communities throughout the country.

In the 1998 elections, there were over 240 State and local parks and conservation ballot initiatives.

Approximately 72 percent were successful, including a $1 billion open space initiative in my own State of New Jersey.

The American people are making their voices heard on this critical issue, and passage of conservation legislation is a strong and meaningful way to respond.

I look forward to working with the members of this committee to ensure that we do the right thing by preserving and protecting our critical natural resources.

STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR FROM THE STATE OF FLORIDA

Mr. Chairman, thank you for holding today's hearing. This year during the 106th Congress we have an opportunity to enact the broadest conservation measures since the 1980 Alaska lands bill and the original Land and Water Conservation Fund of the 1960's. Our committee will be playing a key role in forging the compromise that will be necessary if we are to pass this critical legislation this year.

We are beginning the third full century of our nation's history. The first was marked by the Louisiana Purchase which added almost 530 million acres to the United States. It changed the United States from a eastern, coastal nation to one covering the entire continent. The second century of our nation's history was marked by additions to the public land trust. President Theodore Roosevelt started the century by designating for Federal protection between 1901 and 1909 almost 230 million acres—a land area equivalent to that of all of the East coast States from Maine to Florida and just under one-half of the area purchased in the Louisiana purchase.

As we enter the third full century of our nation's history, we must ask ourselves, how can we preserve these national treasures given the changing nature of American society? In the next century, America will become a different place. The Census Bureau predicts that our population will grow from 275 million to 571 million. This population will become progressively more urban, more diverse, and older. We must work today to ensure that our approach to conservation is in tune with the greater demands that will be placed on our natural system. We must strive to meet the challenge posed by Theodore Roosevelt, who said, "We must ask ourselves if we are leaving for future generations an environment that is as good, or better, than what we found."

As a member of ENR Committee I have been engaged in the CARA bill debate since early 1999. I believe one of the most critical elements of the final package is one outside of the jurisdiction of this committee, but critical in our nation's conservation policy—funding for our national parks. In April 1999 I introduced The National Park Preservation Act, S. 819, with my colleagues Senators Reid, Mack, and Cleland. This bill would establish a National Park Preservation Fund of $500 million for actions by the National Park Service to protect or restore core park resources that are threatened by actions inside or outside park boundaries. Over the last year, I have visited multiple national parks throughout the Nation and have been stunned by the condition of park resources.

In the Everglades, human manipulation of watershed led to ecosystem devastation. At Ellis Island National Monument, historic structures left unmanaged are dilapidated. At Bandelier National Monument, cultural artifacts are soiled by graffiti and are left unprotected from erosion.

This weekend I will be visiting Olympic National Park to broaden my perspective on the State of our national parks. My legislation will provide the National Park

Service with the funding it needs to address the condition of its natural, cultural, and historical resources. I hope that each of you will join me in my support for our National Park System and for forward progress on the OCS Revenue bills that we are considering today.

This Congress has the opportunity to meet the challenge posed by Theodore Roosevelt to leave our world a better place for future generations. We have the opportunity, with action on the bills before us today, to reach the people of the next century with the vision of John Muir who said: "Thousands of tired, nerve-shaken, overcivilized people are beginning to find out that going to the mountains is going home; that wilderness is a necessity; and that mountain parks and reservations are useful not only as fountains of timber and irrigating rivers, but as fountains of life."

Thank you, Mr. Chairman.

OPENING STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR FROM THE STATE OF CONNECTICUT

Thank you Mr. Chairman for holding this important hearing. Rarely are we presented with choices that will so profoundly influence the environmental future of this nation as this one, the debate over Outer Continental Shelf (OCS) oil and gas revenues. Happily, we have already witnessed a tremendous commitment of time and effort to this important subject, both here in the Senate and in the House. Let me begin by recognizing that commitment, particularly on the part of my colleagues who have introduced their own legislation, including Senators Murkowski, Bingaman, Landrieu, Boxer, and Graham.

I am glad to have the opportunity to discuss this subject further and look more closely at S. 25, S. 2123, and S. 2181 here today, because I know that the conservation of land and wildlife is of great concern to the people in my home State of Connecticut and around the country. Last year, Connecticut passed an Open Space and Watershed Land Grant Program with a goal of preserving as open space 21 percent of the State—roughly half a million acres—by the year 2023. One hundred and 15 land trusts are now active and growing in Connecticut. Across the United States, similar groups are also working hard to protect and preserve lands in their own backyards.

The stakes are large, and it is clear that these groups cannot do it alone. Local and State efforts need the support of a larger, national vision of conservation and stewardship. The concept behind all three bills we will consider today is straightforward: we should reinvest the proceeds gained by the depletion of federally owned, non-renewable natural resources such as oil and gas, into a reliable source of funding for State, local, and Federal conservation and environmental stewardship efforts. There are differences between how the bills would achieve this goal, some of them significant, but before addressing those differences, I believe it is important to recognize the value of the underlying concept.

A few years ago, the late Senator John Chafee and Senator Jim Jeffords and I also developed legislation on this subject, S. 1573, the Natural Resources Reinvestment Act. We drafted S. 1573 based on four basic principles that I still believe are relevant to crafting an environmentally sound and regionally equitable proposal for reinvesting OCS revenue. First, OCS revenues should be reinvested in the nation's resources—environmental, natural, cultural and historic. Second, this reinvestment must be meaningful and lasting. Third, we should distribute the revenues equitably among all regions of this great nation. Fourth, we should make the funding for our national reinvestment permanent.

The bills before us today address these fore, core principles to varying degrees. There is still time to blend them into a final legislative product. I look forward to hearing our witnesses today and learning from their perspectives on the principles I have described, as well as on other improvements that might yet be made. Finally, I look forward to a constructive dialog with my colleagues in the coming weeks as we address these remaining challenges and work toward creating a tremendous national environmental legacy that seems increasingly within our reach and our grasp.

STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Mr. Chairman, I want to thank you for holding a hearing on what I consider to be the most important and historic conservation legislation to come before this Congress. I am pleased to say that I have been involved from the very start in the effort to create a permanent source of conservation funding. In February 1999, Representative Miller and I introduced the Permanent Protection of America's Resources 2000

Act, a bill that would provide nearly $3 billion in funding for a variety of important conservation programs. Since then, I have worked closely with Senator Bingaman and Senator Baucus to develop the Conservation and Stewardship Act, S. 2181. I am deeply committed to the passage of conservation funding legislation.

I want to begin by congratulating my colleagues, Chairman Young and Representative Miller, for their remarkable and successful efforts to pass H.R. 701, the Conservation and Reinvestment Act. I am thrilled that we have gotten to the point we are at now. The House-passed bill, while not perfect, offers a useful starting point for the Senate. I was particularly pleased with several key changes that I believe largely address the question of drilling incentives.

Several days after the victory on the House floor, I introduced identical legislation in the Senate and had it placed on the Senate calendar. I did this not because I endorse everything that is in the House bill but rather, because I believe that the fastest way to pass conservation funding legislation is to take up where the House left off. With so few days left in the legislative calendar, I fear the Senate will miss its opportunity to work on this important issue unless we move forward expeditiously. It would be a tragedy if we let this session of Congress end without passing this critical legislation to protect our invaluable natural and cultural heritage.

I understand that Chairman Murkowski has scheduled a mark-up for these bills in mid-June. I commend the chairman, Senator Bingaman, Senator Landrieu and others on the Energy Committee who have been working for many months to find a compromise; I hope that they are indeed able to move a strong bill out of their committee.

Whatever bill becomes the final vehicle, it should accomplish the following four goals: 1) provide substantial and permanent funding for conservation purposes; 2) ensure that the funds will be used only for the benefit of the environment; 3) give adequate guidance to direct the funds to the most pressing conservation needs; and 4) be free of any incentives for increased offshore oil and gas development.

I believe that S. 2181 most effectively accomplishes these goals. Although many of the bills have similar features, S. 2181 has some important distinguishing characteristics that are worth highlighting. Importantly, S. 2181 includes an incentives program for landowners who contribute to the recovery of threatened and endangered species. Increased outreach to landowners is desperately needed to ensure the continued survival of many endangered and threatened species that are found primarily on private lands.

Like many of the other conservation funding bills, S. 2181 also provides funding to State fish and wildlife agencies for wildlife protection. The bill, however, provides specific guidance to the States, including a requirement that they develop a strategic plan for using these funds. This ensures that the funds will be used for nongame and game species alike and that the funds will be directed to the species that have the greatest conservation needs. The planning language for this title is supported by a broad array of wildlife interest groups.

S. 2181 also provides greater clarity to coastal States about the use of coastal impact assistance funds. It ensures that the funds will be used only for projects related to environmental enhancement or restoration. Without such explicit restrictions, there will be pressure at the State level to siphon off these dollars for activities completely unrelated to conservation, including environmentally harmful activities.

Finally, S. 2181 includes safeguards to ensure that the bill in no way creates incentives for State or local governments to support increased offshore oil and gas drilling.

These are all features that should be incorporated into any bill that moves forward in the Senate. The level of public awareness and interest in these conservation issues has grown dramatically as people realize that our natural and cultural treasures will continue to disappear unless we act quickly to save them. During the last election there were a record number of successful State ballot initiatives directed at the protection of open space, slowing of suburban sprawl, and increasing environmental protection. By margins of nearly 2 to 1, Californian voters passed two major bond initiatives: a $2.1 billion bond for land acquisition, outdoor recreation, urban parks, farmland protection, and wildlife habitat; and a drinking water bond providing $1.9 billion for watershed restoration and water quality improvement. Americans understand that we can't afford not to make a long-term investment in our natural treasures.

This level of public interest is reflected by the fact that nearly every Governor has expressed support for the idea of permanent conservation funding. The White House has sent strong signals of endorsement. And most recently, the House demonstrated unequivocally that broad bipartisan support exists across the political spectrum and from all geographic regions. This is as it should be.

It is time now for the Senate to act. I am committed to doing everything I can to create a permanent source of conservation funding, and I am hopeful that we can pass legislation to do so this year.

STATEMENT OF HON. THAD COCHRAN, U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Mr. Chairman, thank you for inviting me to testify at this hearing today.

The Federal Government has too often used Outer Continental Shelf revenues for big, high profile projects, and has virtually left out small States like Mississippi. We have smaller projects, and our needs are not nearly as great as some of the larger States, but yet they are very real and very important to the people who live in Mississippi.

This legislation will shift more of the money that comes from these resources to States like Mississippi.

We have environmental organizations and State agencies that are trying hard to protect fragile wetlands and fisheries resources, and we are restoring the habitat of the osprey and eagle. Great progress is being made on these and other similar initiatives, but we need the extra money this bill will provide to enable our State to do the job right.

For many years, we have sought additional funding for the "State-side" portion of the Land and Water Conservation Fund, which provides Federal funding for State initiatives for the protection of valuable natural resources and fish and wildlife habitat. Our bill provides full funding for the State's share while still providing for Federal programs, coastal conservation and impact assistance, wildlife conservation and education programs, and historic preservation.

I'm glad to be a cosponsor of this legislation, and I hope this committee will recommend its approval by the Senate.

STATEMENT OF HON. MARY L. LANDRIEU, U.S. SENATOR FROM THE STATE OF LOUISIANA

Mr. Chairman, thank you for inviting me here today to discuss the Conservation and Reinvestment Act (S. 2123). The Conservation and Reinvestment Act represents a unique opportunity to enact legislation making the largest commitment to conservation in the history of our nation. This compelling and balanced bipartisan legislation would reinvest a significant portion of the annual funds received from the liquidation of a capital asset of the nation—offshore oil and gas in the conservation of our coasts, our wildlife resources, our scenic natural resources and our children, through enhanced outdoor and recreational opportunities. It is free of harmful environmental impacts to coastal and ocean resources; does not unduly hinder land acquisition yet acknowledges Congress' role in making these decisions; reflects a true partnership among Federals State and local governments and reinvests in the renewable resource of wildlife conservation through the currently authorized Pittman-Robertson program by nearly doubling the Federal funds available for wildlife conservation and education programs. The legislation is supported by a grassroots coalition of approximately 4,500 organizations from around the Nation including the Nature Conservancy and the U.S. Chamber of Commerce. To date we have 19 cosponsors and counting, including members from both sides of the aisle and from coastal and interior States. In fact, I am proud to point out that four members of this committee: Chairman Smith as well as Senators Warner, Bond and Wyden are cosponsors of S. 2123.

On May 11, the House of Representatives passed H.R. 701, the bipartisan House companion to S. 2123, by an overwhelming vote of 315 to 102. Congressmen Don Young (R-AK), George Instiller (D-CA), Billy Tauzin (R-LA), John Dingell (D-MI), Chris John (D LA) deserve accolades for this remarkable compromise.

This legislation provides $2.8 billion for seven distinct reinvestment programs. Title I authorizes $1 billion for Impact Assistance and Coastal Conservation by creating a revenue sharing and coastal conservation fund for coastal States and eligible local governments to mitigate the various impacts of OCS activities while providing funds for the conservation of our coastal ecosystems. ID addition, the funds of Title I will support sustainable development of nonrenewable resources without providing incentives for new oil and gas development. All coastal States and territories will benefit from coastal impact assistance under this legislation, not just those States that host Federal OCS oil and gas development. Title II guarantees stable and annual funding for the State and Federal sides of the Land and Water Conservation Fund (LWCF) at its authorized $900 million level while protecting the rights of private property rights owners as I am sure my colleagues from the House side will

be more than happy to point out during their testimony. The bill will restore Congressional intent with to the LWCF, the goal of which is to share a significant portion of revenues from offshore development with the states to provide for protection and public use of the natural environment. Title III establishes a Wildlife Conservation and Restoration Fund at $350 million through the successful program of Pittman-Robertson by reinvesting the development of nonrenewable resources into a renewable resource of wildlife conservation and education. This new source of funding will nearly double the Federal funds available for wildlife conservation. This program in particular enjoys a great deal of support through the tireless support of a coalition of over 3,000 groups known as Teaming with Wildlife. In addition, the Wildlife Conservation program would be enhanced without imposing new taxes. Title IV provides $125 million for the Urban Parks and Recreation Recovered program through matching grants to local governments to rehabilitate and develop recreation programs, sites and facilities. The Urban Parks and Recreation program would enable cities and towns to focus on the needs of its populations within our more densely inhabited areas with fewer greenspaces, playgrounds and soccer fields for our youth. Stable funding will provide greater revenue certainty to State and local planning authorities. Title V provides $100 million for a Historic Preservation Fund through the programs of the Historic Preservation Act, including grants to the States' maintaining the National Register of Historic Places and administering numerous historic preservation programs Title VI provides $200 million for Federal and Indian Lands Restoration through a coordinated program on Federal and Indian lands to restore degraded lands, protect resources that are threatened with degradation and protect public health and safety. Title VII provides $150 million for Conservation Easements and Species Recovery through annual and dedicated funding for conservation easements and funding for landowner incentives to all in the recovery of endangered and threatened species. Finally, there is up to $200 million available for the Payment In-Lieu of Taxes (PILT) program through the annual interest generated from the CARE fund.

I would like to close by pointing out that the opportunity exists to make the Conservation and Reinvestment Act even stronger. There are additional programs such as urban forestry and national park resources which we plan to address. In addition, as many of you know, Senator Bingaman has introduced a bill, the Conservation and Stewardship Act, which shares similar goals, albeit through a slightly different approach. I applaud Senator Bingaman for his efforts and hope we are able to reach a compromise in the near future as prospects for this legislation may never again be as positive as they are in the year 2000. We must resolve our differences of approach and enact this major commitment to conservation that will benefit not just certain people or certain regions of the country, but all Americans for generations to come.

Thank you, Mr. Chairman.

STATEMENT OF HON. DON YOUNG, U.S. REPRESENTATIVE FROM THE STATE OF ALASKA

Mr. Chairman, committee members, thank you for allowing me to testify today on the Conservation and Reinvestment Act, the bill known as CARA. While there are several conservation measures before the Senate, I will focus my testimony on H.R. 701 which passed the House Thursday, May 11, 2000.

After 2-days of debate and 26 amendments, the Conservation and Reinvestment Act of 2000 passed the House of Representatives by a vote of 315 to 102. This vote was important as it is a clear super-majority of the House and represents a majority of both Republicans and Democrats.

I am certain this overwhelming bipartisan support was possible because of the process CARA was formed within. It was a fair and lengthy process that demanded a great deal of commitment and most importantly patience. The Resources Committee held 5-days of legislative hearings and hours of Member negotiations;

Ultimately, two things made our process effective. First, we had a commitment to work together in solving real problems. As you have witnessed, this initiative uncovers several problems. Some of the solutions were challenging and others are too difficult to resolve within this bill. However, H.R. 701 finds balance on issues ranging from incentives for new oil and gas drilling to providing unity for the wildlife community. CARA addresses the concern that it could create incentives for new oil and gas development, by protecting current moratoria areas. And the new wildlife program provides funding for a State-controlled wildlife conservation and education program to the benefit of game and non-game species.

The most persistent issue for CARA has been the discussion on property rights. Let me say for the record, H.R. 701 protects the rights of landowners—It does not diminish them.

If you care about willing sellers, a process to notify the public of new Federal land acquisitions, a reasonable Congressional process for new Federal land acquisition and Federal regulatory limitations—you cannot be happy with current law. Current law falls terribly short on these issues and CARA corrects these problems to the benefit of land owners.

But don't just take the advocates word for it. I ask that you read the bill. But also listen to one of CARA's critics who voted against the bill in committee and on the House Floor. Congressman Richard Pombo of California, a long-time champion of property rights, said the following: "I will have to also say that I do not believe that there is anything in this legislation that directly takes away people's property rights." Congressman Pombo has fought for property rights along the side of Billy Tanzin and I long before it became a popular issue.

The second issue that made our House process successful is the revelation that the most significant enemy of this good legislation is perfection. I think we all use that statement quite often, but it seems to apply to this legislation.

CARA is such a comprehensive conservation and recreation package, it is almost every Member's first instinct to see how one additional change will bring the bill closer to perfection. In the end, we found that the negotiated bill was worth protecting. As amendments and changes have been made, we have successfully worked to protect the central components of the bill. However, by returning CARA to an on-budget framework, providing protections for Social Security and Medicare and making reasonable changes for land acquisition policy, CARA has become a more balanced package.

This conservation and recreation package will benefit the Nation for decades to come and the Senate has a historic opportunity to continue the efforts of this growing coalition by passing a bill this session. I hope that your process will be one that capitalizes upon the coalition that has rallied around these issues. A coalition that has grown to 4,576 Governors, local governments, national and local organizations and countless individuals across the nation.

Thank you for allowing me to testify and I ask that the list of the 4,576 supporting organizations be included in the record.

STATEMENT OF HON. GEORGE MILLER, U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. Chairman, Senator Baucus, and members of the committee, I appreciate your providing me the opportunity to testify today on the most important environmental and resource protection initiative to come before Congress in many years.

When we began formulating various versions of this proposal—Chairman Young, Senator Murkowski and Senator Landrieu called theirs "The Conservation and Reinvestment Act," Senator Boxer and I called ours "Resources 2000"—nearly everyone said the bills were too big, too expensive, too far reaching.

When we said we would try to merge the bills, nearly everyone said it was impossible. Don Young and George Miller, together at last? But we did it. They said we'd never get it out of the Resources Committee; we did, by a 3–1 bipartisan vote.

They said we could never build a national coalition of parks and wildlife and trails and soccer enthusiasts; of hunters and hikers and State and local officials; of sports teams and sports manufacturers, of police and firmer city recreation programs. We did, and over 4,000 organizations and individuals and dozens of newspapers and Legislatures and city and county governments and others embraced our bill.

They said we'd never get it scheduled for the House floor; too much ideological opposition, too many budget questions, too many jurisdictional fights between committees. But 3 weeks ago, 315 Members of the House, a majority of both parties, proved all the doubters wrong.

We delivered to the American people on a promise we made 36 years ago—and then forgot: a permanent, substantial commitment to invest a portion of offshore revenues back into our parks and our coasts, our urban recreation and our wildlife.

And despite the inflamed rhetoric you will hear from a tiny minority of voices, we did it responsibly, without trampling on property rights or States rights. In fact, our legislation takes special care to protect property owners by giving them notice, ensuring they are involved in the process, focusing on alternatives to acquisition, and by putting most of the money—about 80 percent of it—into the hands of State and local of finials, not into the hands of those promoting Federal land acquisition.

So now the responsibility is yours. You can listen to the rhetoric of the nay-sayers and the doubters and kill this legislation; you can say "no" to the 80 to 90 percent of people in your State—in practically every State, Frank Luntz' poll tells us—who want to fund parks and recreation and wildlife.

Or you can do what we did in the House: look at what this bill really says, not how it is characterized. Listen to your constituents, not to hysterical voices who mix—state the intent and the letter of the legislation. Put aside the party and ideological and jurisdictional divisions just long enough to do something that will endure longer than any of us.

If Don Young and George Miller can figure out how to work together to pass CARA with 315 votes in the House, I think the U.S. Senate can figure it out, too.

When a number of us were down at the White House a few weeks ago—Sens. Murkowski, Landrieu, Breaux, Bingaman and Boxer; Congressmen Young, Tauzin, John, Dingell and I—the President told us, and every one of us agreed, that it would be shameful if we fail to pass this bill after having brought it so far. He's right. And the American people overwhelmingly agree with him.

So let's figure out how to get it done. Our resources—whether the coast of Louisiana, or the wildlife, or the parks, or the soccer teams, or any of the others who will benefit are at risk—we don't have years to delay. We've been waiting for three decades. Let's redeem the promise now.

STATEMENT OF HON. HELEN CHENOWETH-HAGE, U.S. REPRESENTATIVE FROM THE STATE OF IDAHO

Mr. Chairman, thank you for holding this hearing today, and for giving me the opportunity to testify before the Senate today on the "Conservation and Reinvestment Act," (or CARA), a bill which will have far reaching implications for the nation. I also want to recognize my own Chairman, Don Young, who is here today to testify on behalf of the legislation. I want to reiterate that although we fundamentally disagree on this legislation (which is rare), I do admire the ability of Chairman Young to work across party lines, and I think it is important to be able to agree with one another and work together. But not at the expense of our constituents out there, our private property owners.

Mr. Chairman, I am fully aware of the support that has been amassed in support of CARA. But I strongly urge this committee and the Senate in its deliberative nature to pull the reigns on this fast-moving wagon, and take a long and hard look at what we are doing. This bill establishes a $40 billion mandatory fund over the next 15 years, billions of which will be given to the Federal Government, States, tribes and even non-profit organizations to purchase private property, forever taking lands out of production and off the tax rolls. Billions more will be at the control of the Secretary of Interior to fund everything under the sun, with little oversight by Congress. This bill also establishes a permanent revenue source for non-governmental organizations, to carry out their purposes.

The point is, Mr. Chairman, is that CARA will dramatically impact the lives of many of our constituents, it will dramatically expand the scope and power of the Federal Government, and it will dramatically reduce the Constitutional role of Congress to control the purse strings. And for that reason, we cannot, we must not let CARA be enacted into law. Whatever temporary benefits are derived, or pressure that is relieved from clamoring special interest groups, will be more than outweighed by the ultimate costs of this legislation.

Mr. Chairman, I only have a few minutes to speak on this issue—so I will cut to what I believe are the central issues that Congress must consider on this legislation. First, while CARA is being established under the guise of "environment" and "conservation," its true premise has more to do with who will own and control property and its use in the United States of America.

When did we conclude that the government can manage the land more responsibly and efficiently than the private property owner?

When did we decide that it was the duty of the government to consume and govern the use of private property?

The truth is that a private property owner categorically does a better job of utilizing and conserving private property. Government, by its very nature, is inefficient and unhealthy when it comes to managing land and water. One only need to look at the recent debacle created by the Federal Government in the fires of New Mexico, the $12 billion backlog in maintenance and repairs for NPS facilities, and the woeful state of our national forests to prove this point.

Second, Mr. Chairman, we must look at what kinds of precedents CARA will set in terms of additional mandatory trust funds taken from general revenue streams?

Consider what it will do to our fiscal priorities such as paying down our debt and shoring up Social Security, building up our national defense, and providing tax relief. Every dollar set aside for CARA is a dollar taken away from these priorities.

In fact, Mr. Chairman, when presented with the facts, other national priorities far outweigh CARA. In a recent national poll, by a margin of 72 percent to 13 percent, Americans rejected spending for CARA when told that it will shift funds away from Social Security and debt reduction. Moreover, Americans on an eight to one margin said that we should address our maintenance needs first before acquiring more lands. Finally, on a list of priorities, only 1 percent picked land acquisition as our most important priority.

Mr. Chairman, I want to let the committee know that I have studied every provision and word in this legislation, and have carefully considered how it will be interpreted. There is so much more to say, and I hope that the Members of this committee would probe this issue through questions.

Finally, Mr Chairman, in considering CARA, I would urge the committee to keep the words one of our founders John Adams in the forefront of their minds. Adams warned: The moment that the idea is admitted into society that property is not as sacred as the Laws of God and there is not a force of law and public justice to protect it, anarchy and tyranny commence. Property must be sacred or liberty cannot exist.

Again, thank you for giving me the opportunity to share my views on this critical issue.

STATEMENT OF HON. JOHN SHADEGG, U.S. REPRESENTATIVE FROM THE STATE OF ARIZONA

Chairman Smith, thank you for the opportunity to testify regarding the Conservation and Reinvestment Act (CARA). While I oppose this legislation, I want to take a moment and compliment its three principal authors, Representatives Young, Tauzin, and Miller. I think it is safe to say that this coalition of men who have often been fierce adversaries on issues relating to the environment and Federal land policy is what has enabled this legislation to move forward. Each of these Members brought their own distinct and differing priorities to the table. Mr. Young fiercely advocated funding for the Pittman-Roberts Wildlife Program. Mr. Tauzin fought to secure funding for coastal States, such as his home State of Louisiana, which permit off-shore drilling. Mr. Miller advanced the notion of full funding for Federal and State land acquisition programs. On their own, each of these proposals might not have gone very far in the legislative process. Indeed I am confident that Mr. Young would have opposed a stand alone measure which guarantees funding for Federal land acquisition just as fiercely as Mr. Miller would have opposed funding that assisted a State on the basis that it permitted offshore drilling. These Members, however, were able to put aside their policy objections in the name of creating one omnibus bill with a little bit of Federal money for everyone, to create in the words of The Washington Post, a "legislative freight train." In so doing they increased the likelihood that each of them would see their own priority enacted into lane While this arrangement may make good politics, I am afraid it makes awful public policy.

Permit me to cite a few examples for the committee.

Private Property Rights—Proponents of CARA will tell you that their bill strengthens private property rights and indeed the bill does include several provisions such as community notification and Congressional approval that improve the Federal land acquisition process. However, the price paid for these provisions was extremely high, namely the creation of an annual $450 million mandatory funding stream for Federal land acquisition. Many private property rights advocates, myself included, would argue that one of the greatest threats to private property is the existence of such a large mandatory funding stream exclusively for the purpose of acquiring more Federal land. The proponents of this legislation will argue that this is not a threat at all because to paraphrase them, "on average, the Republican Congress has provided around $400 million a year for Federal land acquisition anyway." I would alert the committee to the fact that the key to that statement is "on average." While mathematically correct, the use of an average by the proponents distorts the actual funding trend. As you may recall, the 1997 Balanced Budget Agreement included, at the demand of President Clinton, a one-time appropriation for Federal land acquisition of $697.7 million. This one-time agreement dramatically inflates the 5-year average cited by proponents. If the funds provided pursuant to the BBA agreement are excluded, the average funding for Federal land acquisition during the Republican Congress $263.4 million, almost $200 million less than what is provided annually under CARA. Furthermore the bill actually repeals private property rights

protections that exist in current law under the State-side LWCF Program and the Urban Parks Program.

Backlog Maintenance—Even in regards to protecting environmentally sensitive land, the central issue which CARA is intended to address, this legislation does more harm than good. CARA allocates $450 million each year for Federal land acquisition but only allocates $180 million per year for the upkeep and maintenance of existing Federal lands and facilities. There currently exists between a $12 and $15 billion maintenance backlog for federally owned properties. So at a time when the Federal Government owns a third of all the land in the United States and has a $15 billion maintenance backlog, CARA provides $2.50 for more Federal acquisition for every $1 it provides for maintenance. At this rate, it will take 83 years to eliminate the current backlog. Of course by acquiring more land we will increase our maintenance needs and ultimately increase the backlog.

Financial Flexibility and Oversight—CARA creates a mandatory spending program of approximately $3 billion per year for a 15 year period; in effect, setting future Congresses on an autopilot course to spending $45 billion. The Outer Continental Shelf revenues which CARA will utilize are currently available for Congress to address any need or priority, including education, our national defense, and tax relief. Under CARA, this flexibility disappears. What is even worse is most of the proposals for a dedicated funding stream for conservation, including the proposal originally brought to the House floor by Mr. Young, would spend $3 billion a year irrespective of the Federal Government's financial situation. I think that most of use here today would agree that it is foolish to assume that the economic prosperity enjoyed by the American people and the Federal Government this year will continue unchanged for the next 15 years. CARA, however, foolishly locks us into spending $3 billion a year for the next 15 years.

The creation of a mandatory funding program also undermines the ability of Congress to perform effective oversight over these Federal programs. One of the most powerful tools of oversight this or any other Congress enjoys is the power of the purse. Every year a majority of each body attaches restrictions on the use of appropriated funds as a way of addressing mismanagement, waste, and abuse in Federal programs. When we take discretionary programs and turn them into mandatory programs, we lose part of our ability to perform effective oversight. CARA turns $3 billion a year for the next 15 years over to the executive branch with relatively few strings attached.

There are numerous other policy objections to this legislation, including increasing Federal land use planning, inadequate funding for Payment in Lieu of Taxes, and the creation of funding mechanisms for private non-governmental organizations. Each of these are outlined more fully in the Policy Brief prepared by the House Conservative Action Team which I am submitting for the record.

In closing, I would like to encourage my colleagues in the Senate to be leery of the argument that we should pass this legislation because it is what the American people are demanding. It is true, as its proponents claim, that CARA has been endorsed by most of the Governors, numerous mayors, and thousands of groups across this country. A close look at this list, however, reveals that it is almost entirely made up of groups which would be eligible for funding under one or more titles of the bill. Those who have looked at this legislation objectively, including both the Washington Post and the Washington Times, two papers which rarely agree on anything, have concluded that the bill is simply bad public policy.

Edmund Burke famously stated, "Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion." With the promise of free money, it is very easy to get a group behind almost any legislative proposal. CARA has attracted its supporters with little more than the promise of free money. I encourage my colleagues in the Senate to look at these proposals objectively and weigh the benefits and the costs not in a vacuum but in the context of our many competing national priorities, and in the context of the most pressing conservation needs. Analyzed in those contexts, I believe that you will find that these proposals are full of good intentions, but bad policy.

CONSERVATIVE POLICY BRIEF

Conservation and Reinvestment Act (CARA)—H.R. 701 Analysis & Review

SUMMARY: CARA sets up a mandatory funding mechanism whereby $2.825 billion is annually taken from Outer Continental Shelf Revenues (mainly oil and natural gas royalties which under current law are set aside to address the environmental impact of offshore drilling) to the following programs:

$1 billion to be distributed to Coastal States (includes any State bordering the Great Lakes) $450 million for Federal Land and Water Conservation Fund land ac-

quisition $450 million for State Land and Water Conservation Fund land acquisition $350 million for Federal Aid in Wildlife Restoration (Pittman Robertson) $125 million for Urban Park and Recreation Recovery Act $100 million for National Historic Preservation $200 million for Indian and Federal Land Restoration $ 100 million for acquisition of Conservation Easements $50 million for Endangered and Threatened Species Recovery.

CARA also makes up to $200 million annually in interest on the fund available for Payments in Lieu of Taxes (PILT) and Refuge Revenue Sharing. However, the amount disbursed under the bill would be the lesser of the amount appropriated from general funds or $200 million. If Congress appropriated nothing from discretionary funds for PILT or refuge revenue sharing, then CARA would also provide no funds.

The bill sunsets on September 30, 2015.

Budgetary impact: CARA declares off-budget the entire $2.825 billion it takes from the Outer Continental Shelf Fund and the interest on the fund of up to $200 million. Since this money is currently considered on-budget, the bill would have the effect of removing $3 billion annually from the budget process for the next 15 years. Since the Budget Resolution adopted by Congress last month allocates all of the surplus to either public debt reduction or tax relief. passage of this bill would require Congress to either dip into Social Security, cut the amount set aside for reducing the debt, or reduce the amount of funds set aside for tax cuts.

Property rights: CARA contains a number provisions (including notification of the public and government officials, willing seller requirements, and Congressional approval) to protect private property owners, HOWEVER, those provisions only apply to $450 million for the Federal Land and Water Conservation Fund. There are no private property rights protections restricting the use of funds provided to State and local governments. In fact, the bill actually eliminates property protection provisions in current law related to acquisition of land. Under the Urban Parks and Recreation Program (passed by a Democrat Congress and signed into law by President Carter) none of the funds made available by the Federal Government could be used for land acquisition. CARA repeals that provision. Under the State Land and Water Conservation Fund, the bill eliminates the current prohibition on the use of funds for incidental costs related to State land acquisition.

Some property rights advocates are also concerned that despite the protections provided against Federal land acquisition, the creation of an annual $450 million fund primarily dedicated for land acquisition will only further encourage increased Federal acquisition. Right now, funds for land acquisition have to compete against other priorities. In the past it has been a priority of the Republican Congress to hold down spending on acquisition and redirect funds to other priorities.

Maintenance backlog: Current cost estimates of the maintenance backlog for federally owned properties, including the national park system, range anywhere from $8 to $15 billion. CARA only allocates $180 million a year for Federal land maintenance, yet it allocates $450 million a year for Federal land acquisition. Over 15 years that is $2.7 billion for backlog maintenance and $6.75 billion for land acquisition. In other words, CARA provides $2.50 to buy new Federal land for every $1 it provides for maintenance. Furthermore, these new Federal lands will also require maintenance which may further exacerbate the maintenance backlog problem.

Funds for private organizations: Four of the seven titles within CARA either specifically or implicitly provide authority for funds to be transferred to private organizations. Title I—Impact Assistance and Coastal Conservation—allows for cooperative initiatives with "private entities." Title III—Wildlife Conservation and Restoration—authorizes grants and contracts for "wildlife conservation organizations and outdoor recreation and conservation education entities. Title V—Historic Preservation Fund—authorizes funding for the "management entity for any national heritage area." Many of these heritage areas are operated by private foundations. Title VII—Conservation Easements—allows funds to be provided by the Secretary of the Interior to private 501(c)(3) groups which are organized for "conservation purposes" to cover up to 50 percent of the costs of acquiring an easement. CARA provides that these private organization may hold title to and enforce any conservation easement. Some Members are concerned that this is a method of funding land acquisition by some environmental groups.

While it is impossible to put a dollar figure on the amount of funds that could be provided to private organizations under CARA, it is quite possible that millions of dollars a year could flow to private organizations, such as the Sierra Club, the Nature Conservancy, and the Environmental Defense Fund with specific environmental or conservation agendas. Indeed, this concern is significant enough that CARA includes a provision to prohibit funds under Title III—Wildlife Conservation and Restoration—from being used to promote or encourage opposition to hunting.

Federal land use planning: CARA contains several provisions which could significantly increase the Federal Governments involvement in local land use planning. In order to receive funds under Title I (grants to Coastal States) each State is required to submit a Coastal State Conservation and Impact Assistance Plan setting outlining how funds are to be used. This plan must be approved by the Secretary of the Interior. Under Title II (Land and Water Conservation Fund) States are also required to prepare a State Action Agenda "in partnership with its local governments and Federal agencies, and in consultation with its citizens." (Emphasis added)

CARA also expands the ability of the Secretary of the Interior to disapprove conversion requests submitted by State and local governments. Under both the Land and Water Conservation Fund and the Urban Parks program, current law states if a State or local government wish to convert land that was acquired or developed with the assistance of Federal funds to some other non-conservation or non-recreation purpose (such as a new road) then it must be approved by the Secretary of the Interior. Current law provides that the Secretary shall approve of such conversions if he is satisfied that other properties of equivalent fair market value and usefulness are set aside to replace the land being converted. CARA expands the authority of the Secretary of the Interior by providing that he shall only approve a conversion request if the State "demonstrates no prudent or feasible alternative exists". This exact language currently applies to conversion of conservation lands for Federal transportation purposes. This authority was recently used by the Secretary of the Interior to extract $20 million for the U.S. Fish and Wildlife Service from the Minneapolis / St. Paul Airport as compensation for having flights approach the airport over a wildlife reserve. (Source: Dear Colleague circulated by Rep. Don Young 2–9–99)

Limited government: CARA resurrects two programs (State Land and Water Conservation Fund and the Urban Parks Program) that the Republican Congress had previously taken credit for eliminating. (Source: Appropriations Committee Press Release touting "Commitment to Cut Government" in Fiscal Year 1996)

ADDITIONAL CONCERNS

1) Given that Congress has yet to fully fund Payments in Lieu of Taxes (PILT), some Members are concerned that taking more land out of private hands will significantly impact local economies and tax bases, particularly for local schools and law enforcement. CARA does not provide a guaranteed level of funding for PILT, the amount provided is entirely dependent upon the amount provided in regular discretionary appropriations.

2) In the view of some Members, CARA represents a significant expansion of Federal spending. This will reduce the surplus directly impacting Congresses ability to cut taxes, reduce debt, and meet other priorities.

The views expressed in this Policy Brief do not necessarily reflect the views of all Members of the Conservative Action Team. The Conservative Action Team is a Congressional Member Organization of over 50 Republican House Members and is chaired by Representative John Shadegg (R-AZ).

ATTACHMENTS

CATs Policy Brief	Young/Tauzin Response	CATs Response to Young/Tauzin
In regard to PILT and Refuge Revenue Sharing ". . . the amount disbursed under the bill would be the lesser of the amount appropriated from general funds or $200 million.	CARA creates a mechanism that should provide full funding for PILT and Refuge Revenue Sharing. CARA funds will be used to match the annual appropriation up to the statutory cap for both programs.".	Under CARA funding for PILT and Refuge Revenue Sharing is contingent upon the amount appropriated by Congress in regular appropriations bills. If Congress appropriates no money for PILT or Refuge Revenue Sharing, then CARA would provide no funds for either program. This is sharp contrast with the mandatory funding provided for other programs under CARA.

CATs Policy Brief	Young/Tauzin Response	CATs Response to Young/Tauzin
There are no private property rights protections restricting the use of funds provided to State and local governments.	This may or may not be true in every State. However, it is our understanding that many, if not most, States have protections for the rights of property owners. Legislating federal dictates to local governments and States is not a Republican nor Constitutional principle.	There is a fundamental difference between federal mandates and restricting the use of federal funds provided to the States. The Republican Congress has repeatedly included restrictive language in grant programs. In fact CARA includes several provisions restricting the use of funds including, a cap on administrative expenses and penalties for using CARA funds for unauthorized purposes. CARA, however repeals two important restrictions on the use of federal funds that already exist in current lay;. namely: an Urban Parks and Recreation prohibition on the use of federal funds for land acquisition and a prohibition on the use of State Land and Water Conservation funds for incidental costs related to land acquisition (such as eminent domain proceedings). CARA does not contain any private property rights protections for funds provided to State and local governments. CARA does however, include some federal dictates to local governments and States" such as the requirement that every property benefiting from assistance under CARA post a sign bearing such, and the prohibition on using Wildlife Restoration funds to encourage opposition to hunting.
In the past it has been a priority of the Republican Congress to hold down spending on acquisition and redirect funds to other priorities.	That statement is not supported by the facts. Our Republican Congress has granted an average of $160 million above the Administration's request for LWCF land acquisitions, and average of $402 million each year.	While mathematically correct, the lectures provided by the Resources Committee distort the actual funding trend. The 1997 Balanced Budget Agreement included a one-time appropriation for LWCF of $697.7 million which inflates the average provided by the Committee. If the funds provided pursuant to the BBA agreement are excluded, the average funding for LWCF during the Republican Congress is $263.4 million. During the last two years of Democrat control, LWCE was funded at $255.6 million and $216.8 million. During the first two years of Republican control, funding was reduced to $138.1 million and $159.4 million. Furthermore, in 1995 the Republican Congress took credit for eliminating State-Side LWCF.
Regarding Conservation easements—Some conservatives are concerned that this is a method of funding land acquisition by some environmental groups..	This title (Title VII, Subtitle A) will be re-written per an agreement with the Committee on Agriculture. The new language utilizes the funding for the Farm Protection Program administered by the Secretary of Agriculture—a program supported by House Republicans.	CATs will review the new language in order to ascertain whether it addresses the concerns raised in the Policy Brief.

CATs Policy Brief	Young/Tauzin Response	CATs Response to Young/Tauzin
CARA contains several provisions which could significantly increase the federal government's involvement in local land use planning.	CARA does not provide the federal control the policy brief alludes to. Within Title I, the Secretary of the Interior is required to approve State plans are consistent with CARA's uses. While there is a plan within Title II, each State defines its own priorities and criteria.''.	Current law regarding the development Comprehensive State Plans does not require a State to develop its plan in conjunction with the Federal Government. CARA, however, specifically States that plans developed under Title II shall be developed in conjunction with ''Federal agencies.'' As discussed in the CATs Policy Brief, CARA also expands the Secretary of the Interior's authority to disapprove a request by a State or local government to convert property which was acquired or improved with federal funds to other purposes.
Given that the government currently owns 30% of all land in the United States and that last year the Appropriations Committee identified $15 billion in backlog maintenance requirements, some conservatives do not approve of additional land acquisition. The bill appropriates significantly more money for federal land acquisition, $450 million, than it does for maintenance, $200 million.	This complaint speaks to the current process—a process CARA improves. As mentioned above, CARA is near the Republican Congress average annual appropriation ($402 million). CARA creates many property protections that do not currently exist. At the same time, CARA will provide an additional $200 million for current maintenance efforts. This year, the administration has requested a ratio of maintenance funding to land acquisition at 3:1. The $200 million provided by CARA will be in addition to the amount appropriated by Congress.	As discussed above, once the annual funding level is adjusted for a one-time appropriation. CARA's annual funding level of $450 million for land acquisition would be significantly higher than the Republican Congress average of $263.4 million. For every dollar CARA provides for Federal backlog maintenance, it provides $2.50 for land acquisition. While Congress may provide additional appropriations for backlog maintenance, by taking nearly $3 billion a year off-budget, CARA increases the pressure on the discretionary budget and makes even less likely that funds will be available for backlog maintenance.
CARA does not provide a guaranteed level of funding for PILT, the amount provided is entirely dependent upon the amount provided in the regular discretionary appropriations.	Today, the amount of funding provided for PILT Is 'entirely dependent upon the amount provided in the regular discretionary appropriations'. With CARA, the appropriators simply continue to appropriate at historic levels and the matching CARA funds do the rest. CARA provides the only opportunity to fully fund PILT and Refuge Revenue Sharing.''.	Under CARA every program except PILT and Refuge Revenue Sharing has a guaranteed level of funding. The bill may actually provide an incentive for the Appropriations Committee to fund PILT at half of its historic level. Using the matching funds provided under the bill, the Appropriations Committee could maintain current PILT funding levels by providing half of what they provided last year. This would free up funds under the control of the Appropriations Committee for other purposes. If CARA provides a guaranteed funding level for land acquisition, why should it not also provide a guaranteed funding level for PILT?

STATEMENT OF JAMIE RAPPAPORT CLARK, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, I appreciate this opportunity to present the Administration's views on S. 25, S. 2123 and S. 2181, all of which in differing detail provide for permanent funding for a variety of conservation programs from Outer Continental Shelf (OCS) oil and gas receipts. The House 2 weeks ago passed its version of this legislation, H.R. 701, the ''Conservation and Reinvestment Act of 2000?, or CARA, which is very similar to S. 2123. I would like to first present the Administration's goals for this

legislation, summarize the bills, and then address the specific areas in which the Fish and Wildlife Service is involved and that are under the jurisdiction of the committee.

The President feels strongly that this is the year to secure permanent funding for State and community efforts to protect wildlife and local green spaces, reinforce Federal efforts to save natural and historic treasures, and expand efforts at all levels to protect ocean and coastal resources.

The Land and Water Conservation Fund was established to devote a significant portion of the revenues from our offshore oil and gas resources to conservation and outdoor recreation. Historically, as we are all aware, the spending from the Fund has fallen far short of its objectives, which is one of the reasons there has been such a groundswell of support for the new legislation. We believe the time has come to secure permanent funding to ensure that the vision for the Land and Water Conservation Fund is fulfilled, and that this vision is adapted to meet today's conservation challenges.

More specifically, while we believe there must continue to be a strong Federal role in the protection of our natural resources—particularly resources of national significance for which the responsibility for protection goes beyond the State or local level—there is a growing need and demand for additional assistance to States, Tribes and communities struggling to preserve green space, restore degraded lands and provide increased recreational opportunities. Natural resource protection is Rotund cannot be the exclusive role of the Federal Government. Many conservation needs are most appropriately and most effectively addressed at the State or local level; or through public-private partnerships.

The bills before you take this approach—matching grants for acquisition or easements to protect locally important lands, matching grants to States to preserve wildlife habitat and protect and restore coastal areas, matching grants to help recover endangered species, grants and technical assistance for urban parks, and matching grants to protect farms and ranches from development—along with guaranteeing funds for Federal acquisition from the Land and Water Conservation Fund.

The Administration has several broad goals for the final version of this legislation. We believe it must not impose burdensome or unnecessary restrictions on Federal authority to acquire and protect critical lands; it must ensure that new funding is devoted to purposes consistent with the environmental and conservation goals of the legislation; it must ensure that new funding for wildlife protection be targeted primarily for at-risk and non-game species; in order to provide continuity between Federal and State programs, the Department of Commerce must have appropriate oversight authority for marine or coastal plans, without modifying the existing responsibilities of other agencies, and it must not establish new incentives for offshore exploration or development. We also believe it must provide permanent funding for conservation purposes within a balanced budget framework.

There is a tremendous degree of common ground between the Administration's objectives and the bills pending before the committee. The Administration is fully committed to working with Congress to achieve these goals. We are pleased that H.R. 701 has passed the House with such a broad bipartisan majority, and that you have scheduled this hearing so quickly after the House action.

This is truly an opportunity, in the words of Theodore Roosevelt, to leave "an even better land for our descendants than it is for us."

In the interest of simplicity, I will address my comments to S. 2123 and S. 2181, as Senator Landrieu, the sponsor of both S. 25 and S. 2123, has indicated she and the other cosponsors plan to base their efforts on the latter bill.

Both bills provide permanently appropriated annual funding for a similar but not identical group of conservation programs. S. 2123 provides for $1 billion to be allocated among all coastal States to address the impacts of OCS oil leasing, while S. 2181 provides $365 million for an Oceans and Coastal Conservation Fund and a separate $100 million for impact aid to coastal producing States.

Both S. 2123 and S. 2181 provide the fully authorized amount of $900 million for the Land and Water Conservation Fund, to be split 50 percent for Federal acquisition and 50 percent for State programs. In addition, S. 2181 provides for $ 125 million for a new grant program to assist in the conservation of Non-Federal Lands of Regional or National Interest.

Both S. 2123 and S. 2181 provide $350 million for grants to the States for wildlife conservation, to be managed through the existing Federal Aid in Wildlife Restoration (Pit/man-Robertson) program. I will subsequently discuss these provisions in more detail.

S. 2123 provides $100 million for historic preservation, while S. 2181 provides $150 million. S. 2123 provides $125 million for urban parks and recreation recovery, while S. 2181 has $75

million, plus 550 million for an Urban and Community Forest program. S. 2123 has $150 million for endangered species recovery efforts and cooperative conservation easements, while S. 2181 has $50 million for endangered species recovery efforts, $50 million for ranchland protection efforts under the Secretary of the Interior and $50 million each for farmland and urban forest protection efforts under the Secretary of Agriculture.

S. 2123 has $200 million for restoration of degraded Federal and Tribal lands, while S. 2181 has $60 million for Youth Conservation Corps projects, $150 million for National Park Service resource protection, $ 15 million for coral reef protection efforts under the Secretary of the Interior, with another $ 15 million available to the Secretary of Commerce for coral reef activities under the Oceans and Coastal Conservation Fund, and $25 million each for Forest Service Rural Development Assistance and Rural Community Assistance programs.

S. 2181 makes funds directly available for Payment in Lieu of Taxes (PILT), but does not include the Refuge Revenue Sharing program. S. 2123 makes up to $200 million in interest on the conservation funds available to supplement appropriations for Revenue Sharing and PILT. It also-makes between $40–50 million available annually from interest for the North American Wetlands Conservation Fund; this is not covered in S. 2181.

The portions of these programs in which the Fish and Wildlife Service is actively involved and which I understand to be in whole or part within the jurisdiction of the Committee on Environment and Public Works are the coastal impact assistance, the wildlife conservation grants to the States, the endangered species recovery and conservation easement grants; in S. 2123, funding for Refuge Revenue Sharing and the North American Wetlands Conservation Act; and, in S. 2181, the coral reef programs. We are also involved and interested in the Federal portion of the Land and Water Conservation Fund and in S. 2123, the Federal Lands Restoration Fund, both of which I understand to be under the jurisdiction of the Energy Committee and which I will therefore not address today.

The two bills take very different approaches to the issue of coastal impact aid. S. 2123 has a large overall program under the Secretary of the Interior, who has jurisdiction over the offshore leasing program and who oversees numerous programs addressing coastal conservation and environmental issues. However, this approach makes only limited provision for the interests of the Department of Commerce, which has several major coastal programs that directly relate to the purposes of the State grants.

Many Senators are familiar with the Department of Commerce's marine programs under the Magnuson-Stevens Fishery Conservation and Management Act, the National Marine Sanctuary Act, the Coastal Zone Management Act, the Marine Mammal Protection Act, the Endangered Species Act, the Oil Pollution Act, CERCLA, the Clean Water Act, the National Invasive Species Act, the Hydrographic Services Act, the Coastal Wetlands planning, Protection and Restoration Act, and Nation Sea Grant College Program Act. You may not be as familiar with the Fish and Wildlife Service's activities and authorities. Commerce will submit a statement for the record setting forth these authorities.

Under the Marine Mammal Protection Act, we have jurisdiction over polar bears, walrus, sea otters and manatees, while Commerce has jurisdiction over truly marine species like whales and dolphins. We have shared jurisdiction with Commerce for many anadromous fish such as Atlantic salmon and striped bass. We co-chair with Commerce the Aquatic Nuisance Species Task Force, and the President's budget requests includes over $10 million for Service activities to address this problem.

The Fish and Wildlife Service is statutorily designated to comment on fish and wildlife impacts from Clean Water Act section 404 permits and other water-related development activities under Federal authorization or permit. Over 45 percent of all threatened and endangered species, virtually all of which are our responsibility, inhabit coastal areas, as do, at one point or another in their life cycle, 85 percent of all waterfowl and other migratory birds, which are solely under our jurisdiction.

We have a Coastal Program dedicated to conserving coastal habitats for the benefit of fish, wildlife and people, primarily through partnership efforts. Since 1994, we have protected over 166,000 acres of coastal habitat through easements or acquisition, restored more than 46,000 acres of coastal wetlands and 17,000 acres of coastal uplands, and reopened nearly 2,300 miles of coastal streams for anadromous fish. The budget request for this program for fiscal year 2001 is nearly $9,000,000. We also administer the Coastal Barrier Resources Act, which prevents taxpayer subsidies for development in Congressionally designated undeveloped coastal barriers along the Atlantic and gulf coasts.

We have over 150 National Wildlife Refuges in coastal, bay or estuarine areas in every coastal State, comprising a total of nearly 36 million acres. Through these ref-

uges, we manage and conserve virtually all elements of coastal and coastal-related ecosystems. In the last three fiscal years we have received a total of over $106 million for land acquisition at our coastal refuges. In addition, some of these refuges contain major areas of coral reef resources. We estimate that 1.5 million acres of coral reef resources are under our management and control within National Wildlife Refuges. There are an additional approximately I.4 million acres of coral reef habitat that occur in the immediate vicinity of these refuges, where we are working in cooperation with State, local and other jurisdictions on conservation efforts.

Under the Coastal Wetlands, Planning, Protection and Restoration Act, we made grants of over $ 11 million to coastal States last year, and work with the Corps of Engineers and other Federal and State agencies on coastal wetlands restoration in Louisiana. We administer the North American Wetlands Conservation Act, under which funds (also $11 million last year) are earmarked for coastal wetland protection and enhancement grants. One of our major programs, Federal Aid in Sport Fish Restoration, provides grants to States for both freshwater and marine fishing, fish habitat, and water access projects. In recent years, we have provided an average of over $40 million annually to coastal States for projects related to marine fishing or marine fisheries habitat protection. In addition, we administer under the main Sport Fish program the Clean Vessel Act, which provides grants for pumpout stations for boat toilets, and a new Recreational Boating Infrastructure grant program, both of which benefit both coastal and inland waters. The grant amounts for those programs this year will be $10 million and $8 million, respectively.

In contrast to the divergence on coastal programs, the bills have virtually identical provisions for matching grants to the States for wildlife conservation. We seek only a few changes with respect to Title III. Both bills require an emphasis on species that are not hunted or fished; however, we feel strongly that there should be greater direction that the funds be used for at-risk and non-game species.

These grants, particularly if focused as we request, can be an invaluable tool to help prevent populations of non-game fish and wildlife from declining to the point where they would need regulatory protections such as listing under the Endangered Species Act. Game species have had decades of assistance through the current Pittman-Robertson Act program, which is financed by excise taxes on firearms, ammunition, bows and arrows and related items. While non-game species also receive major benefits from the habitat protection funded by the Pittman-Robertson Act, the primary focus has quite understandably been on game species.

The nation's hunters have long been enthusiastic supporters of this program, and it was their lobbying efforts in the 1930's which led to imposition of the taxes and creation of the program. Regrettably, there has since then not been any consensus on a similar funding mechanism for non-game species.

Apart from the Pittman-Robertson Act, virtually all Federal programs have been devoted toward species that have already declined to the point that they need the protection of the Endangered Species Act. There has been nothing in between, although we have been making efforts in that direction through the Candidate Conservation program; yet this also benefits only species that are on the brink of needing ESA listing. Funding of the magnitude proposed in these bills could have benefits for the nation's at-risk, non-game wildlife species that would be almost impossible to exaggerate.

In addition to the inherent benefits to fish and wildlife, there are nearly 63 million Americans who watch, feed or photograph wildlife who would benefit from enactment of this program. These 63 million people spend nearly $30 billion annually in the course of their activities. There is therefore a strong economic benefit to be derived from a non-game program.

We urge the committee to aggressively pursue enactment of this non-game wildlife grant program, and hope that we can work with you to determine the appropriate focus for the program.

We also believe the Tribal governments need to be included in the wildlife conservation grants. As you know, the Administration included within our budget a request for $100 million for non-game wildlife grants to States. Within that, we proposed that 3 percent of the funds be available for grants to Tribal governments, on a competitive basis, and we would hope that you would consider a similar arrangement.

We are also very concerned about funds for administration of the program. S. 2123 generally provides 2 percent of available funds for administration of the various grant programs it authorizes, while prohibiting any administrative funds for the non-game wildlife grants. We understand that the prohibition in S. 2123 is a direct outcome of the largely resolved problems which have been identified with administration of our Federal Aid programs, an issue which I understand the committee plans to take up next month. While we have been assured from the House side,

where the prohibition originated, that funding for this program will be incorporated into final legislation, I wanted to alert you to this issue. The program could fail without appropriate oversight and administration, and we need an adequate level of funding for administration if we are to make it work effectively.

S. 2181 does make 2 percent of Title III funds available for administration of that Title. I would urge you to include provisions for program administration funding within whichever version of these bills eventually emerges.

I would also note that S. 2123 provides that the interest generated on the funds set aside for the non-game grants would be made directly available to the Secretary of the Interior for the North American Wetlands Conservation Act. As the committee well knows, this is one of the most successful and popular conservation programs in the country, and demands for grant moneys, with matching funds, far exceed the Federal funds available to make the grants. Through early fiscal year 2000, the $320 million in Federal funds issued as grants under this program have generated over $800 million in matching funds from over 900 partners. Any funding which can be made available for this program will be effectively and efficiently used.

Both bills provide funds for cooperative endangered species recovery agreements. This is one of the most exciting concepts within the legislation, and would prove of tremendous value to our recovery efforts. Recovery, like conservation generally, cannot succeed as a totally governmental effort. Unfortunately, we have had until recently rather limited tools for assisting participation in recovery efforts by non-Federal parties. We began receiving funds for landowner incentive grants toward recovery in fiscal year 1999, the same year our Safe Harbor policy became final. Both of these have proven extremely successful, with the demand for landowner incentive grants far exceeding available funding. Inclusion of a guaranteed funding source in the final version of this legislation is probably the single most effective action Congress could take to speed recovery for listed species.

I would note that S. 2181 makes no provision for participation by the Department of Commerce, in Title IV, the Endangered Species Recovery Fund, nor for any use of the Title II Coastal Stewardship Fund for listed species. Commerce does have jurisdiction over certain anadromous fish species listed under the ESA, including salmon species on the West Coast, and they should have the ability to either participate in the Endangered Species Recovery Fund. Title VII of S. 2123 has participation by both the Secretaries of Interior and Commerce, without any allocation of funds. Absent further Congressional action on this point, the Administration would allocate the funds between the two Departments as part of the budget process each year, and act to ensure proper coordination between the Departments to avoid duplication and waste.

Lastly, we have Refuge Revenue Sharing. S. 2123 provides for the OCS funds to earn interest while awaiting obligation, up to $200 million of which would be available to pay a portion of the costs of the Refuge Revenue Sharing and Payment in Lieu of Taxes (PILT) programs, while S. 2181 provides "such sums as may be necessary" directly from the OCS receipts to "fully fund payments to units of general local governments as provided in this Act". Inasmuch as this portion of the bill is entitled "Payments in Lieu of Taxes", it would appear that S. 2181 would not include Refuge Revenue Sharing.

As you may know, the Refuge Revenue Sharing program was not designed as a Payments in Lieu of Taxes program, but has come to be one in all but name. It authorizes the Secretary to make payments to local governments based on the greater of 25 percent of revenue generated from the sale of products, privileges and leases on National Wildlife Refuges within their boundaries (not including fees), three-fourths of 1 percent of appraised fair market value of the refuge lands, or 75 cents per acre. If refuge receipts are not sufficient to meet the entitlement, Congress is authorized to make up the difference with appropriated funds. If sufficient funds are not available from either source, the payments are proportionately reduced. I would urge you to include the Refuge Revenue Sharing Program with the PILT program in whichever version of these bills emerges.

Mr. Chairman, that concludes my specific comments. The Administration looks forward to working with this committee and the rest of the Senate to build on the bipartisan spirit shown by the House and to find a way do what the public clearly wants us to do—leave a legacy of financial resources adequate to protect our Nation's national treasures. I would be pleased to respond to any questions you may have.

STATEMENT OF SALLY YOZELL, DEPUTY ASSISTANT SECRETARY FOR OCEANS AND ATMOSPHERE, DEPARTMENT OF COMMERCE

Mr. Chairman, thank you for the opportunity to present the Administration's views on S. 25, S. 2123, and S. 2181, all of which provide permanent funding for a variety of conservation programs from the Outer Continental Shelf (OCS) oil and gas receipts.

The Administration applauds the efforts of the Congress to provide a permanent stream of significant new resources to support State and community efforts to protect ocean and coastal resources. We believe your efforts go hand in hand with strides the Administration has made toward conserving and protecting these precious resources. The President has outlined his priorities for land and water conservation in the Lands Legacy Initiative submitted to Congress in his fiscal year 2001 budget request. Under this Initiative, the Department of Commerce is requesting a significant increase ($263.3 million) for coastal and marine activities. The total Department of Commerce Lands Legacy request of $428.5 million is almost one-third of the total Lands Legacy package—all dedicated toward protecting and conserving our precious coastal and marine resources. This increase includes $100,000,000 for a Coastal Impact Assistance Fund for coastal States.

The Administration supports the objectives of these conservation bills, and we have several broad goals that we believe should be in any final version of legislation:

- it must not contain burdensome or unnecessary restrictions on current Federal authority;
- it must ensure that moneys available under the bill be devoted to purposes consistent with the environmental and conservation goals of the legislation;
- it must ensure that funding for wildlife-related entities and programs is targeted primarily for at-risk and non-game species; and
- the legislation must not establish new incentives for offshore exploration or development. We also believe it must provide permanent funding for conservation purposes within a balanced budget framework.

In addition, to provide continuity between Federal and State programs, the Department of Commerce must have appropriate oversight authority for marine or coastal plans, without modifying the existing responsibilities of other agencies.

I would like to direct almost all of my comments today to the "coastal titles" of the bills before us. As I am sure most of you know, the Department of Commerce houses the National Oceanic and Atmospheric Administration (NOAA), the Nation's "ocean agency." NOAA has the scientific and management expertise, statutory authorities and experience to address the marine and coastal issues included in these bills. The Congress, throughout the years, has given NOAA a range of authorities for managing coastal and marine resources, including: the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Coastal Zone Management Act (CZMA) (including the National Estuarine Research Reserve program), the National Marine Sanctuaries Act (NMSA), the Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA), the Oil Pollution Act (OPA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or "Superfund"), the Clean Water Act, the National Invasive Species Act (NISA), the Hydrographic Services Act, and the National Sea Grant College Program Act (Sea Grant). Under each of these statutes, NOAA has authority for conserving and managing the Nation's marine and coastal resources.

Under the Magnuson-Stevens Act, NOAA has broad management authority for the conservation and management of living marine resources off the U.S. coasts,- the implementation and enforcement of domestic and foreign fishing regulations in the U.S. Exclusive Economic Zone, and the implementation and enforcement of international fishery agreements. The Magnuson-Stevens Act established a unique management system for marine resources through a system of regional fishery management councils, with which many of you are familiar. These regional councils provide a mechanism for bringing diverse fisheries interests together in developing fishery management measures to ensure sustainable fisheries resources. In fiscal year 2000, NOAA received $170 million in appropriations to implement the Magnuson-Stevens Act and is requesting an increase of $40 million for fiscal year 2001.

The CZMA is another effective and long-standing tool that NOAA and the States use to protect our precious coastal areas. Under the authorities of the CZMA, NOAA implements the Coastal Zone Management Program in partnership with the coastal States and territories of which 34 out of 35 are now participating. This program is completely voluntary and coastal States have joined it over the years because it works. This program aims to balance competing demands on coastal land and water

resources within the coastal zone, such as habitat protection, coastal hazard mitigation, public access and development. After receiving Federal approval through the Department of Commerce for their State coastal zone management plans, the programs are carried out through State laws that are consistent with national guidelines set by NOAA. In fiscal year 2000,NOAA is providing $54.7 million in grants to address the complex set of challenges that coastal States and territories face, and another $2.5 million to strengthen efforts to reduce the flow of polluted runoff into coastal waters. The President has requested an increase of almost $100 million for this vital program to better help States with the variety of issues facing their coasts such as urban sprawl, polluted runoff, and other coastal hazards.

A vital part of the CZMA is the National Estuarine Research Reserve System. This system of 25 estuarine field sites protects coastal resources, provides a network of laboratories for scientific investigation of coastal processes, and provides critical management information to coastal decisionmakers. NOAA operates this program in partnership with the 21 coastal States and territories that have, or will soon have, designated Reserves. More than one million acres of estuarine lands and waters are now protected through this system. The fiscal year 2000 budget for this program is $6.0 million, with another $ 13.25 million for construction and land acquisition within the Reserve System. In fiscal year 2001, the System will grow to 27 sites and has a requested budget of $20 million.

I would like to talk next about our National Marine Sanctuaries program and the authorities vested in NOAA through the NMSA. Under NMSA authorities, NOAA has established a unique network of marine protected areas dedicated to the conservation of nationally significant areas of the marine environment. This is unique legislation that focuses protection solely on marine and coastal resources, which is NOM's specific expertise. The National Marine Sanctuary Program currently consists of 12 sites around the United States off the coasts of Massachusetts, American Samoa, California, Washington, and Florida. We even have one sanctuary, the Flower Garden Banks, in the middle of "oil country" in the Gulf of Mexico. Under the primary mandate of the NMSA, NOAA protects the sanctuary resources, including natural and cultural resources, through direct management actions, education, and research programs. Management is through an ecosystem approach, protecting biological, physical, and chemical qualities. NOAA's budget for this vital program is $25.9 million for fiscal year 2000 and we are requesting a total of $35 million for fiscal year 2001.

Under the MMPA, NOM is the lead agency for the conservation, protection and recovery for over 100 species of marine mammals, such as whales, dolphins, seals and sea lions. As the USFWS outlined earlier, they manage four marine mammals under the MMPA—polar bears, manatees, sea otters and walrus. Under the ESA, we have jurisdiction over marine species, such as Pacific salmon and share jurisdiction over Atlantic salmon and sea turtles with USFWS. NOAA received approximately $155 million under these two authorities in fiscal year 2000. The President's fiscal year 2001 request includes a large increase and totals $280 million.

Under CWPPRA, NOM serves on a Task Force with four other Federal agencies and the Governor of Louisiana as part of an ongoing effort to restore the coastal wetlands of Louisiana. CWPPRA provides funding and support for the restoration, protection, conservation and enhancement of threatened wetlands in the Louisiana coastal zone. This ongoing partnership between the Federal Government and the State has resulted in funding for 111 restoration projects totaling over $340 million, designed to address the rapid loss of Louisiana's wetlands. The Task Force was responsible for the preparation of a comprehensive coastal Restoration Plan for the State of Louisiana, which was completed at the end of 1993, and conducts a scientific evaluation of the completed wetlands restoration projects every 3 years and reports the findings to Congress. In fiscal year 2000, NOAA is spending approximately $7 million on CWPPRA implementation.

NOAA is also the primary Federal trustee for protecting and restoring coastal and marine resources injured by releases of oil and other hazardous substances under the Clean Water Act, CERCLA, and OPA, except in certain cases where the resources are managed by the Department of the Interior. The President has designated specific Federal officials to act on behalf of the public for natural resources managed or controlled by the United States, including land, fish, wildlife, biota, air, water, ground water drinking water supplies, and their supporting ecosystems. The National Contingency Plan, which was first drafted in 1968 to provide a blueprint for the Federal Government's response efforts, specifically directs the Secretary of Commerce, to act as a trustee for natural resources managed or controlled by DOC and for natural resources managed or controlled by other Federal agencies that are found in, under, or using water navigable by deep draft vessels, tidally influenced

waters, or waters of the contiguous zone, the exclusive economic zone and the outer continental shelf.

NOAA fulfills these responsibilities and has recovered over $250 million for the restoration of the public's coastal and marine resources. The trustee authority is premised upon NOAA's expertise in managing: Commercial and recreational fishery resources; Anadromous species; Endangered and threatened marine species and their habitats; Marine mammals; Marshes, mangroves, seagrass beds, coral reefs, and other coastal habitats; and Resources associated with National Marine Sanctuaries and National Estuarine Research Reserves.

NOAA also provides critical scientific advice during spills of oil and hazardous materials. Our national oil and hazardous substance spill response strategy is based on the National Oil and Hazardous Substances Pollution Contingency Plan (NCP 40 CFR 300 et seq.). The NCP provides the organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants, and contaminants. The NCP establishes "special forces" to assist the Federal On-Scene Coordinator (FOSC) during a response. NOAA's Scientific Support Coordinators (SSCs) are identified in the NCP as a special team available to the FOSC. NOAA SSCs provide the primary scientific support to the United States Coast Guard for spills occurring in U. S. navigable waters, and respond to approximately 100 oil and hazardous substance spills a year. NOAA provides expertise in oil slick tracking, pollutant transport modeling, natural resources at risk and environmental tradeoffs of countermeasures and cleanup.

Under the National Invasive Species Act, NOAA performs various research and outreach activities relating to aquatic nuisance species. We provide $800,000 for NISA activities including regional activities and support for the aquatic nuisance species task force which we cochair with Department of the Interior, $3 million under Sea Grant to fund grants for aquatic nuisance species research and outreach activities, and fund aquatic nuisance species prevention and control research at the NOAA's Great Lakes Environmental Research Laboratory. In conjunction with the Department of the Interior, we provide $850,000 for ballast water demonstration projects to develop technology to control aquatic nuisance species.

NOAA is the primary Federal agency for ensuring safe navigation through coastal and marine waters. Through the Coast and Geodetic Survey Act and the more recent Hydrographic Services Improvement Act of 1998, NOAA and the Department of Commerce undertake acquisition of hydrographic data and provide hydrographic services for safe navigation. These responsibilities are supported through our nautical charting, geodetic control, and real time tides and currents programs. These programs not only ensure that hydrographic activities and data serve to support the Nation's economy but also to protect the coastal and marine environment by reducing groundings and spills from navigation related activities. An important aspect of this is water level information collected from around the coast and the Physical Oceanographic Real-Time Systems (PORTS), which is the only Federal supported program of its type, that NOAA has in partnership with regional and local governments.

In addition, under the National Sea Grant College Program Act, NOAA provides grants for research, education, training, and advisory service activities in fields related to ocean, coastal, and Great Lakes resources. The National Sea Grant College Program network currently consists of 30 Sea Grant college programs located in all coastal and Great Lakes States and Puerto Rico. In addition, national strategic investments in fields relating to ocean, coastal, and Great Lakes are authorized. The President has requested $59.3 million for this important program in fiscal year 2001. In summary these statutory authorities clearly outlines NOAA's primary responsibilities as steward for marine and coastal resources.

I would like to provide some comments on the conservation legislation before us. First, I would like to comment on S. 2123, legislation that mirrors H.R. 701 as introduced in the House. As I stated earlier, while the Administration supports the objective of the legislation, we do remain concerned about several aspects of S. 2123 and strongly support amendments to improve and strengthen the legislation. For example, Title I of the legislation creates a wholly new coastal State program requiring the development and approval of "State Action Plans". However, creating a new program is unneeded; there are existing authorities in place, such as the Coastal Zone Management Act (CZMA) planning process, and other Commerce and Interior coastal programs that can be used to address the environmental consequences of outer continental shelf (OCS) oil and gas development, and the activities identified in Title I. This is the approach taken in the President's Lands Legacy initiative. The Lands Legacy initiative proposes $100 million be provided to affected States to mitigate environmental impacts of OCS development. NOAA would allocate the funds to the affected States through the CZMA, which States and the Federal Government

have been using since 1972 to coordinate activities within the coastal zone. In addition, Lands Legacy includes $159 million for traditional CZMA State grants and another $170 million in related coastal and marine programs. This is a total of $429 million within existing authorities to address coastal concerns, including mitigating the environmental impacts of OCS development.

We recommend that whatever form Title I takes in any final legislation that it provide appropriate oversight authority to the Department of Commerce for coastal or marine plans without modifying the existing responsibilities of other agencies. Title I currently does not recognize existing responsibilities of the Department of Commerce, acting through NOAA, for State and local conservation, research, and management programs. Giving the Department of Commerce the authority to approve the States' coastal or marine plans would eliminate confusion and duplication of State efforts and make more efficient use of existing Federal Government programs and resources. All the plans submitted to the Department of Commerce would automatically be sent to the Department of the Interior. With respect to those plans that affect programs under the jurisdiction of the Department of the Interior, we would obtain Interior's concurrence. We would develop a mechanism, such as a memorandum of agreement, with Interior to ensure an effective and efficient process to ensure both agencies' mission responsibilities are fully met. Such a process should be transparent to the States and minimize States' needs to manage an approval process through multiple Federal Governmental offices while ensuring each agency's environmental and management responsibilities are respected.

All of the 11 authorized uses of Federal grant funds contained in Title I of S. 2123 refer to programs that have Federal counterparts administered by the Department of Commerce, through NOAA, by authority of Reorganization Plan No. 4 of 1970 or subsequent legislation. In fact, the creation of NOAA as a single, unified agency was intended to bring together and improve coordination of a variety of synergistic Federal programs, in cooperation with State and local governments, dealing with living marine resources, coastal management and conservation, marine education, maritime commerce and marine research. Providing Department of Commerce oversight of the State and local programs proposed in Title I would ensure consistency and coordination with existing NOAA programs including the existing State and Commerce coordination under the CZMA planning process.

Also, S. 2123 could cause confusion because it does not explicitly provide that the new "State Action Plans" developed under the bill be consistent with State Coastal Zone Management plans. We recommend that language be added to both bills to clarify that the State plans be consistent with the already-approved CZMA plans. In addition, we are pleased to note that Title VII of S. 2123, which deals with endangered species recovery efforts, has participation by both the Secretaries of Interior and Commerce, without any allocation of funds. We would like to see funds provided to the Department of Commerce so that we may also continue our work under the authorities of the Endangered Species Act. Absent further Congressional action on this point, the Administration would allocate the funds between the two Departments as part of the budget process each year, and act to ensure proper coordination between the Departments to avoid duplication and waste.

As for S. 2181, the Administration applauds the objective of the legislation and supports language in the bill that gives appropriate jurisdiction over Title I to the Department of Commerce. We are also pleased to see that priority is given to activities and plans which support and are consistent with NOAA programs such as the National Estuarine Research Reserves, the National Marine Sanctuaries, Coastal Zone Management, and other Federal laws, such as the Magnuson Act, MMPA, and ESA, which govern the conservation or restoration of coastal or marine fish habitat. We also support priority being given to activities and plans that promote coastal conservation, restoration or water quality protection and other conservation needs. The Land and Water Conservation Fund was created to better protect our environment and it is crucial that funds be spent on activities consistent with this goal.

Finally, Title IV of S. 2181 governs endangered species, over which the Department of Commerce has joint management responsibility with the Department of the Interior. Specifically, the Department of Commerce has jurisdiction over most marine and anadromous species, and we have joint jurisdiction over species such as sea turtles. And yet the bill makes no provision for participation by the Department of Commerce in Title IV, the Endangered Species Recovery Fund. The Department of Commerce does have sole jurisdiction over certain anadromous fish species listed under the ESA,including salmon species on the West Coast, and shortnose sturgeon on the East Coast, and we should have the ability to participate in the Endangered Species Recovery Fund for our endangered species recovery efforts.

This concludes my specific comments. In closing, I would like to reiterate that the Administration applauds the great strides this Congress has made toward ensuring

passage of OCS Revenue legislation this year. The Administration looks forward to working with this Committee, and the rest of the Senate to build on the bipartisan spirit shown in the House. We are at the turn of a new century—a time we can really make a difference in the future of our Nation. We hope we can all work together to leave a legacy of financial resources to protect our Nation's land and water treasures.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the presentation of this statement to the Congress.

STATEMENT OF DAVID WALLER, PRESIDENT, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Thank you, Mr. Chairman. My name is David Waller, Director of the Georgia Division of Wildlife, and President of the International Association of Fish and Wildlife Agencies. Accompanying me today is Wayne Vetter, Executive Director of the New Hampshire Game and Fish Department, and President of the Northeast Association of Fish and Wildlife Agencies.

We appreciate the opportunity to appear before your committee today to share with you the collective strong support of the 50 State Fish and Wildlife Agencies for the Conservation and Reinvestment Act, a bill that will ensure a conservation legacy for all Americans. This bill is unquestionably the most significant legislative initiative for fish and wildlife (and other natural resources) conservation in the last several decades. Whether you hunt, fish, bird watch, hike, play soccer or just enjoy the peace and tranquility of being outdoors appreciating the vast natural bounty of our Nation, this bill will ensure that our children and future generations will enjoy this bountiful natural wealth.

The overwhelmingly bipartisan House vote last week sending H.R. 701 to the Senate clearly shows that conservation programs are an extremely high priority for the American people. This vote dedicating funding for conservation sends an unmistakable message that certainty for conservation program funding has finally achieved the standing in the national budget that it truly deserves. As you know and appreciate, Mr. Chairman, natural resource conservation and recreation programs contribute significantly to our quality of life, our socio-economic stability, and our Nation's health and well-being. Just as Social Security is a financial safety net, conservation of our natural resources is resource safety net for both this and future generations.

We urge your expeditious favorable attention to the Conservation and Reinvestment Act, and encourage your cooperation with and assistance to Chairman Murkowski to facilitate a bill being expeditiously reported to the full Senate for its consideration this year. Lets take advantage of the tremendous opportunity afforded us in this bill to do something for all Americans!

The Association testified last year before this committee (on March 18, 1999) and before the Energy and Natural Resources Committee (on May 4, 1999), on S. 25 and several other proposals that would dedicate Outer Continental Shelf (OCS) revenues to State-based enhanced programs for fish and wildlife conservation, conservation education, and wildlife associated recreation; land and water conservation; outdoor recreation; and coastal conservation and impact assistance. Since that time, Senator Landrieu and Senator Murkowski have introduced S2123 (the House Resources Committee reported H.R. 701); Senator Bingaman has introduced S2181, and, just last week, the House passed H.R. 701 and sent it to this body for action. The Association strongly supports the Conservation and Reinvestment Act because it is a bipartisan, consensus-built, and common sense approach to conservation that makes good economic sense, good common sense, and good political sense. We sincerely appreciate the work of Senator Bingaman and Senator Baucus on the wildlife title of S. 2181, and you'll find our recommended improvements to Title III of CARA are certainly consistent with some of their bill.

The coalition of over 4500 organizations that has come together in support of CARA, and worked so tirelessly for House passage 2 weeks ago, truly represents both broad and diverse grass-root support of the business community, conservation organizations, elected officials at all levels of governments, industry, the recreation community and other interests. Citizens from "soccer moms" to hunters and wildlife photographers strongly support CARA. Our common goal is to bring dedicated, consistent funding to state-based fish and wildlife conservation programs; land and water conservation; coastal conservation and environmental programs; State and local outdoor recreation; historic preservation; and incentives for our landowners to continue good stewardship of their land in open space uses as farmland, ranchland

and forest land. CARA places decisions on identifying needs and spending priorities at the State and local level which we believe can best reflect the interest of our citizens, and, it does that while giving greater protection than exists in current law to private property owners with respect to Federal land acquisition. This coalition truly represents America's interest in our natural and cultural heritage, and our need to conserve that heritage for future generations. The work of this coalition over the last 2 years has resulted in the bipartisan, consensus-based bill that the House has sent over to you, a product that we urge you to give serious consideration as you undertake your own legislative deliberations.

As we have testified before, the most significant benefit of CARA to fish and wildlife conservation is that the State fish and wildlife agencies will finally be in a position to take preventative conservation measures to address the life needs and habitat requirements of declining species before they reach a status where they must be listed as endangered or threatened species. This will save money and prevent the social and economic disruption associated with species being threatened or endangered. By acting proactively when more conservation options are available to us, the State fish and wildlife agencies can work cooperatively with private landowners through voluntary, non-regulatory means such as incentives, technical assistance, easements, and other such measures. Prevention makes good biological sense, good economic sense, and good common sense. Preventative conservation now is an investment that will continue to pay dividends far into the future. It simply costs much less to conserve fish and wildlife species by responding to early warning signs of decline, than it does to recover these species once they have to be listed.

Also, as you know, Mr. Chairman, outdoor recreation is the fastest growing industry in this country, and CARA will position the State fish and wildlife agencies to help local communities identify and take advantage of wildlife related tourism opportunities. Programs to capture these opportunities can significantly enhance the economy of these rural communities.

Let me briefly share with you today the few perfecting amendments the Association would urge be made to the Wildlife Title (Title III) of the Conservation and Reinvestment Act before Senate passage. The Association staff will continue to work closely with your committee staff on the details of these suggested improvements.

First, the Association strongly urges that the floor (or minimum amount) of Title III allocation for States be raised from ½ of 1 percent to 1 percent. This relatively simple change would benefit 10 States, including New Hampshire, where pressures on fish and wildlife and their habitats are significant, and where this modest adjustment would greatly enhance these States' programs for fish and wildlife conservation, conservation education, and wildlife associated recreation. The 10 States benefiting from this change include ME, NH, VT, RI, CT, DE, WV, ND, SD and HI. All of the State fish and wildlife agencies concur with this requested change even though some, like my State of Georgia, would have to give up a small amount of Title III funds to raise the floor for the other States. A table showing comparative allocations with the ° percent and 1 percent minimum is attached.

Second, the Association, in cooperation with many other fish and wildlife conservation organizations, supports the inclusion of "conservation strategy" language that describes the decisionmaking process the State fish and wildlife agencies will engage in to identify the needs and priorities for spending Title III funds. This is basically a process that our agencies already go through to decide how to spend limited funds. It involves a comprehensive consideration of the distribution and status of fish and wildlife species, availability of habitat, land-use activities, planned infrastructure, demands on the fish and wildlife resources and their habitats, etc. The language (attached) we are recommending represents the hard work and good faith efforts of many parties, and enjoys widespread support of the wildlife conservation community.

Thirdly, we strongly encourage you to allow, at the discretion of the State fish and wildlife agency, the expenditure of up to 10 percent of the Title III funds for conservation law enforcement activities. This discretion was removed from the House bill at committee mark-up, but the Association sincerely urges you to provide for it in the Senate bill. As you know, State fish and wildlife conservation officers have many opportunities to work with landowners and the public to implement voluntary, proactive fish and wildlife protection and public education and outreach programs. They also prevent poaching, or over-utilization of fish and wildlife resources, thereby reducing the likelihood that a species may become threatened or endangered in the future. Further, they provide for public safety, security, search and rescue functions, and resolution of outdoor user conflicts. In short, conservation law enforcement is an integral component of a comprehensive State fish and wildlife program and should, at the discretion of the State Director, be eligible for up to 10 percent funding under CARA.

Fourth, in the House passed H.R. 701, and in S. 2123, we would like to call your attention to the 10 percent spending cap restriction on wildlife related recreation expenses. In 1996, over 62 million Americans participated in wildlife viewing with an economic impact of nearly $30 billion. Wildlife related recreation is critical in the fostering of the public's commitment to wildlife conservation in short, responsible nature-based tourism development, the promotion of nature and birding festivals, active wildlife-watching skill-building, and other creative activities build and sustain a growing wildlife conservation constituency. Although we recognize the concern that infrastructure needs might divert needed funding away from on the ground conservation, States need to be able to provide quality, safe opportunities for wildlife viewing and photography which are not only highly popular but provide significant economic benefits to communities. Such wildlife recreation opportunities would be provided consistent with other needs for wildlife management. Also, one-time capital investments to provide wildlife related recreation facilities while maintaining ongoing programs could require more funding than the 10 percent annual cap would allow. State fish and wildlife agencies are in the best position to decide what mix of Title III funds should be applied to conservation, wildlife associated recreation, and conservation education, and we encourage your support for eliminating the 10 percent cap on expenditures for wildlife associated recreation.

Fifth, the Association asks for your serious consideration of allowing a 90 Federal: 10 State ratio match for the Title III funds for the first 5 years of the program. This will allow some States, whose fish and wildlife agencies currently receive no general funds, to build their program in an orderly way as they go about securing State matching funds.

Sixth, the Association supports the provision of an adequate amount of funds, with appropriate Congressional direction on its use, be made available to the USFWS for delivering apportioned CARA funds to the States. The Association recommends that 2 percent–3 percent would be an appropriate level, and urges that an additional 2 percent be made available to the FWS to administer a Multi-State Conservation Grant program to fund projects of regional or national significance such as Partners in Flight. In addition to their on-the-ground benefits for fish and wildlife resources, the cost of developing and implementing these projects of multi-state benefit is significantly less than if each State undertook the project on its own.

Finally, we would like to make an observation that puts funding for comprehensive fish and wildlife conservation in perspective. The Association estimates $1 billion or more in additional funding needs annually for all 50 States for the programs that would be funded under Title III of CARA. We are sincerely and genuinely appreciative of the funding level in CARA now, but fully recognize that the needs are much, much greater. Spending money now to address and conserve the so-called nongame species will clearly save money in the future when these species don't have to be listed as threatened or endangered to secure their status. We encourage you to consider allowing the Title III funds to rise if OCS gas and oil receipts rise, by establishing a floor of $350 million, and a ceiling of up to 10 percent of the incoming OCS receipts, which ever is greater. That way, as exploitation of this non-renewable natural resource proceeds, the revenue can be used to conserve renewable and sustainable natural resources as fish and wildlife, and associated recreation for our citizens.

Mr. Chairman, in closing, the Association stands ready to assist you in whatever way we can to make programs which would be funded under CARA a reality for all of our citizens. Let's work together to pass this landmark legislation now, and provide a future for our citizens that we can all be proud of passing on.

We would be pleased to answer any questions the committee may have.

Thank you for the opportunity to share the Association's perspectives with you.

RESPONSES BY DAVID WALLER TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. Please elaborate on the Federal Government's role in State and local planning decisions under S. 25, S. 2123, and S. 2181.

Response. The Federal Government is given no additional role in State and local planning decisions under any of these proposals. What CARA can and will do, however, is help States, counties, and local communities make more informed land-use decisions regarding growth and development that are consistent with natural resources conservation since the State natural resources (and other) agencies will have better information on what significant habitats, etc. need conservation attention.

Question 2. If the Department of Interior disagrees with a State's or locality's planning decision, could DOI withhold funds?

Response. I read nothing in any of the proposals that would give DOI the authority to do that.

Question 3. I am concerned with the impact of S. 25, S. 2123, and S. 2181 on lands used for hunting and fishing. The flood of money provided by CARA will enable buying and turning over to the government, private lands currently used for hunting and fishing. This will subject the property's sporting use to the whim of public opinion, and a bureaucracy increasingly hostile to sport, fishing, trapping, and gun ownership.

An example of my concern is what happened in New York last year with the largest land purchase in that State's history. For over one hundred years, Champion International Timber Company and previous private owners has leased out 139,000 acres of its holdings for recreation, including fishing and hunting. When the State of New York purchased the land, the State's first "management" action was to eliminate hunting access and drastically limit other recreation uses. Included with these mandates was ordering the destruction of 298 hunting cottages used by 3,000 sportsmen each year.

Under S. 25, S. 2123, and S. 2181, how likely are scenarios like this?

Response. The case you cite was raised by former Assistant Secretary (USDI) Ray Arnett and was apparently and erroneously based on press reports. Attached is a letter from Peter Duncan, Deputy Commissioner of the NY Dept. of Environmental Conservation, who points out that, contrary to Mr. Arnett's statement, the land will be available for public hunting and fishing. Mr. Duncan was specifically involved in the negotiations for the property, while Mr. Arnett's allegations are based on erroneous information.

CARA Title III funds will be administered by the State fish and wildlife agencies which have a long-standing and unquestionable record of support for hunting, fishing and trapping as legitimate and sustainable uses, under scientific wildlife management, of fish and wildlife resources. The scenario you describe is extremely unlikely to occur.

Question 4. Under S. 25, S. 2123, and S. 2181, how is the applicability of the Pittman-Robertson Act expanded?

Response. With the exception of the very limited opportunity for the CARA subaccount funds to be used for wildlife conservation education and conservation law enforcement, the Pittman-Robertson Act is not expanded under CARA. Only the source of funds for the CARA subaccount is expanded from the original funding source.

Question 5. Could the additional funds lead to abuses of the Pittman-Robertson fund?

Response. Congress is currently considering bills to legislatively reform the administration of the Pittman-Robertson (and Wallop-Breaux) programs by the USFWS. We anticipate that such reforms to the administration of the underlying Act would also apply to the administration of the CARA subaccount.

Question 6. Under S. 25, S. 2123, and S. 2181, what is the total scope of potential land acquisition?

Question 7. Under S. 25, S. 2123, and S. 2181, how much land acquisition power has any restrictions or protections placed upon it?

Response. With respect to Title III, we do not anticipate that a significant amount of the funds will be spent on land acquisition. The needs for acquisition either fee title, conservation easements or purchase of development rights will depend on the State and will depend on the species that need to be addressed and their habitat needs. For example, in States that have a lot of public land, the mountain areas tend to be in public ownership and the valleys tend to be privately owned. Those valleys in many cases constitute critical winter range for a large number of species, both game and non-game. A very practical approach and a very workable one is to work with landowners on conservation easements or purchase of development rights so those lands could remain under private ownership but remain available for wildlife during the critical winter period. This is beneficial both to landowners who would like to remain on the land and to the future of wildlife. At the same time there may be areas particularly in the east where there is heavy human populations or it may be absolutely essential to acquire through fee title or conservation easements several hundred or thousands of acres of significant habitat in short supply. Again to the extent that the State can meet its objective, we would expect it to be done through conservation easements with maybe some of it being subject to fee title in order to provide a level of public use and public access to streams, canoe areas, etc.

Question 8. Under S. 25, S. 2123, and S. 2181, what is the potential for significant increases in discretionary spending above and beyond what would be dedicated to the trust fund?

Response. Congress will decide through the appropriations process whether (and how much) to spend additional discretionary funds for conservation/recreation purposes.

Question 9. Does creating a CARA trust fund violate the fiscal year 2001 budget resolution?

Response. Congress will decide which mix of spending will be consistent with the fiscal year 2001 budget resolution.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,
OFFICES OF NATURAL RESOURCES,
February 9, 2000.

To the Congressional Sportsmen's Caucus:

I understand that a letter regarding the proposed Conservation and Reinvestment Act penned by G. Ray Arnett and sent to the House Resources Committee on November 5, 1999 continues to circulate and confuse. The Arnett letter is a classic example of misinformation designed to deceive the reader. Mr. Arnett falsely opines that "overzealous regulators, joined by environmental pressure groups . . . will make folly of the "willing seller" clause by harassing owners of properties targeted for acquisition." Mr. Arnett falsely claims the recent acquisition of Champion International lands by New York State an example of such a "folly." As a negotiator in the Champion Lands agreement, I would like to set the record straight. In fact, was Champion who approached New York State with a proposal to sell its lands. There was never pressure from regulators or any other entity to negotiate this win-win agreement that benefited Champion Internationad as well the citizens of New York State. A better example of a truly "willing seller" is hard to imagine.

Contrary to Mr. Arnett's letter, New York State has not eliminated hunting access to the lands recently purchased from Champion International. In fact, this landmark acquisition, completed with a willing seller and in accord with New York's Open Space Conservation Plan, is the single largest addition to New York's publicly accessible hunting and fishing land in this century. This complex transaction, when fully implemented, will result in all New York anglers, hunters and trappers once again having access to over 140,000 acres of lands and waters that have been previously closed to the public for the past 100 years.

As part of this acquisition, New York State acquired fee titlee to about 30,000 acres of famous "northern flow" river corridor lands formerly owned and managed by Champion International. Upon acquisition, these lands became part of New York's Forest Preserve, which by provision of the New York State Constitution must remain forever wild. However, New York State ensured that all existing hunting club leases to the Champion lands were fully honored and that reasonable transition periods were allowed before exclusive hunting rights pursuant to these leases expired. As a result, leaseholds located on forest preserve lands were granted a 1-year transition period at which time they have the opportunity to keep their camps for 5 years including one-acre envelope of exclusive use around each camp or relocate during the 5-year period to the easement lands in order to take advantage of a 15-year transition period. Beginning in July of 2000, all of these fee title lands (forest preserve) will again be open to the public including existing leaseholders, for a full range of recreational activities including hunting, fishing and trapping.

The remaining Champion lands, approximately 110,000 acres, were purchased in fee by a private timber investment company and will remain in active forest management. Tke State of New York acquired conservation easement, including development rights and recreation rights, on these same 110,000 acres. Beginning in July 2000, these easement lands will also be open to the public for a variety of outdoor recreational uses, including hiking, canoeing and fishing. As part of the acquisition, New York Sate agreed to end the exclusive hunting rights of existing leaseholders on these 110,000 acres of easement lands for a period of 15 years, even though the leases were annual leases and the State had no legal obligation to renew or extend them. Our goal was to provide the leaseholders with a transitional period in which could continue to enjoy exclusive hunting on these easement lands for a reasonable transition period. At the end of that fifteen-year period, these easement lands will once again be opened to hunting and trapping for not only the existing hunting camp lessees but for all the public.

In negotiating this complex transaction the State has assured that the interests of the existing leaseholders were considered, that the easement lands will be main-

tained in productive and sustainable forest management, that the habitat value of lands will be enhanced through responsible forest management, and that all hunters and trappers will have access to these land forever thereafter.

Mr. Arnett in dead wrong on how this important land acquisition end management partnership will impact public access for hunting, fishing and trapping. Mr. Arnett contends that lands under government ownership and control will soon prohibit "consumptive use of wildlife resources" without providing any justification for such a position. All New York anglers, hunters and trappers will soon enjoy the access to all of the former Champion land where previously those lands were off limits to all but select few. We are proud of the Champion land acquisition and believe it clearly demonstrates the value the Nation's anglers, hunters and trappers can derive from a willing seller-based acquisition program. We look forward to passage of the Conservation and Reinvestment Act to provide New York and other States with the financial resources to build on this record of success.

Sincerely,

PETER S. DUNCAN, *Commissioner.*

RESPONSES BY DAVID WALLER TO ADDITIONAL QUESTIONS FROM SENATOR BOND

Question 1. I notice that the Conservation and Reinvestment Act includes conservation, conservation education and wildlife related recreation. Briefly describe for me why these three different aspects of Title III are important.

Response. Conservation includes first determining what we call the status of the hundreds of species of wildlife that we regularly see (such as many of the common birds that return in the spring) and systematically collecting that information over time in order to determine which species are declining and what their habitat requirements are. With this information we can work cooperatively and voluntarily with landowners to ensure that the species do not decline to the point where they become threatened and endangered. We of course already know a number of species that are declining and will undoubtedly become threatened and endangered unless we begin immediate work to reverse that decline. We also know some types of habitat that are in decline and that the amount of that habitat may be getting less. For example, there are remnants of historical prairie type grasses that are very important to a number of species. There is a lot of interest on the part of landowners to restoring the prairie habitat type. We have the technical know how to do that and with some technical assistance and other work with landowners, we believe in many cases we could restore substantial part of that habitat which would be very important for a lot of species.

The second part, conservation education, we think is fundamentally important to conservation over time. There was a time when most of our people lived on the land and had a fairly good idea of what constituted conservation of land and water. As we have become a land of urbanites and suburbanites, there is less understanding of the basic principles of conservation which are important for both urban and rural areas. We might as Aldo Leopold expressed, reach a point where we believe that heat comes from the stove and milk from the milkman. We need to understand our dependence on natural resources and the things that we can do as individuals to help protect water, air, vegetation and soil.

The third part of Title III is wildlife related outdoor recreation. The fastest growing form of outdoor recreation in the United States today is related to wildlife. Whether it is along the northeast coast, where there is an unparalleled level of migration of birds: or bears in Montana or Alaska; or bats in Texas, the public wants to be able to see, to photograph and to take home with them the experience of seeing wildlife. Most people who visit national parks and national forests and wildlife refuges, for example, record that the high point of their trip is seeing some form of wildlife that they have not seen before. There is a tremendous economic impact for communities from that type of visitation.

Question 2. During the consideration of the wildlife title, there was already considerable amount of conversation about game versus non-game and whether this legislation ought to restrict OCS funds to non-game species. What is the States' answer to that question?

Response. (1) We do not believe that the legislation should restrict use of funds to non-game species. In the first place, wildlife requires specific habitat and in virtually all habitats there are both game and non-game species, so artificially restricting funding to game or non-game does not make sense. (2) Recognizing that fact, a large spectrum of wildlife related organizations ranging from the National Wild Turkey Federation to Rocky Mountain Elk Foundation to National Rifle Association to Defenders of Wildlife have all agreed on so-called planning strategy language

which we commend for your use rather than dealing with game or non-game restrictions or emphasis. The planning strategy language simply says that a State will look carefully at the status of species and the status of habitat and will address priority needs for declining species and scarce habitat as it goes about preparing the 5-year program. That is a reasonable and practical approach and the process will include public involvement as the planning strategy is developed. We believe that will provide a sound approach to planning that is flexible enough for the States to meet its overall needs for wildlife management, while at the same time providing emphasis on species that are declining and on scarce habitat. As a practical matter, in most States the species that are declining the most tend to be non-game species simply because we do not have adequate funding to address the needs of those species.

Question 3. Do you anticipate that a high percentage of the wildlife money will be spent on acquisition?

Response. No, I do not. The needs for acquisition either fee title, conservation easements or purchase of development rights will depend on the State and will depend on the species that need to be addressed and their habitat needs. For example, in States that have a lot of public land, the mountain areas tend to be in public ownership and the valleys tend to be privately owned. Those valleys in many cases constitute critical winter range for a large number of species, both game and non-game. A very practical approach and a very workable one is to work with landowners on conservation easements or purchase of development rights so those lands could remain under private ownership but remain available for wildlife during the critical winter period. This is beneficial both to landowners who would like to remain on the land and to the future of wildlife. At the same time there may be areas particularly in the east where there is heavy human populations or it may be absolutely essential to acquire through fee title or conservation easements several hundred or thousands of acres of critically short habitat. Again to the extent that the State can meet its objective, we would expect it to be done through conservation easements with maybe some of it being subject to fee title in order to provide a level of public use and public access to streams, canoe areas, etc.

Question 4. Does Title III provide additional regulatory power for either the Federal Government or the States?

Response. No, Title III is a completely non-regulatory, voluntary, incentive based approach to wildlife management. That is the approach valued by the States which has been very successful, as you know.

Question 5. How much money do the States have now on wildlife management programs and who pays the bill?

Response. Nationally more than 80 percent of the bill is paid for by hunters and anglers, either through license fees or through excise taxes on guns, ammunition, fishing tackle or motorboat fuel taxes. The balance comes from a variety of sources such as a ⅛ percent sales tax in Arkansas and Missouri, a portion of the sales tax in Virginia, and a portion of the lottery in Arizona and Colorado. In more than half the States, 100 percent of the wildlife management program is funded by hunters and anglers. T am submitting a copy of the latest survey that shows how the State fish and wildlife agencies are funded for the record.

Question 6. Why do the States think a dedicated fund from OCS oil receipts is so important compared to other approaches?

Response. We know that from the experience of the Pittman-Robertson and Wallop-Breaux Acts, funds from which (beginning in 1937) have provided a dedicated source of funding for wildlife that really works. By knowing each year that we will have funding over time, it is possible to lay out long-term programs to hire competent staff and to establish a program of cooperation with landowners that works. I believe that approach saves a lot of money rather than dealing with rapidly changing program levels each year which makes it very difficult to either hire staff or to establish long-term working programs with landowners.

Question 7. You are aware that some believe that this new funding should be restricted to non-game or at least there should be a mandate that it be used primarily for non-game. Is the current Pittman-Robertson program funded by those who buy guns and ammunition restricted to game species?

Response. No, neither the Pittman-Robertson nor Wallop-Breaux funds are restricted to game species. We recognize that in many States, because all of the funding comes from hunters and anglers, that the States must spend money on a wide variety of species, particularly threatened and endangered species in order to carry out wildlife habitat improvement programs. The annual report of the Association indicates the States spend substantial amounts of money each year from Pittman-Robertson and Wallop-Breaux funds for threatened and endangered and other non-game

species. The States also provide public information, conservation education, and other services to the public whether the public is interested in game or non-game species.

Question 8. What would keep the States from simply taking this new money and carrying out the same old program and not addressing the broad array of species or otherwise modifying the program to address non-game species?

Response. The first pragmatic reason, of course, is that with the huge coalition that has been developed around the Conservation and Reinvestment Act, and the requirement for public involvement in developing a 5-year program, there is simply no practical way the States, even if they wanted to, could ignore that new constituency. All of the States recognize that new constituency that is part of the funding. Second, the States, more than a decade ago, recognized the need to have a broad program that addressed the needs of the broad array of species as reflected in this act. The States for 10 years have supported this extra effort to obtain additional funding. The State fish and wildlife agencies better than anyone else recognizes the need for funding the at least 1500 species of wildlife that we now do not have funding to address.

Question 9. In your proposal today, you ask that we not only pick up the planning strategy language but that we also raise the minimum per State from ½ percent to 1 percent and that we move the upper limit on outdoor recreation which was added to the Senate. You also asked us to allow the States to use the up to 10 percent of the funds for law enforcement, provide a transition funding from starting at 90 percent and being reduced to 75 percent over 5 years, and that we increase the total amount of funding to $450 million. Would you please address each one of those briefly.

Response. I would be glad to. (1) The planning strategy language has been agreed to by a broad cross section of wildlife interests as the realistic approach to addressing the needs of a broad array of species whether they be game or non-game.

We believe that the raising of the minimum per State from ½ to 1 percent is very important because with the ½ percent of 1 percent it really did not provide enough for States to have an effective program, particularly those States that have a small land base but high populations, where there is a lot of pressure being put on natural resources. That includes such States as New Hampshire, Delaware, Rhode Island, Connecticut, etc. A second kind of State where the ½ of 1 percent is a problem are States such as North Dakota, South Dakota and West Virginia, where there is a larger land base but very low relative population. There are 10 States that would gain from the change from ½ percent to 1 percent. Several States such as New York, Alaska or Texas would not change at all. The States that would get a little bit less per State would provide a big help to the States where the minimum is raised.

The ceiling of 10 percent on outdoor recreation funding was added by the House apparently out of concern that the States would be lobbied for outdoor recreation facilities and would spend too much money on those activities. First, that is highly unlikely because you are dealing with a State fish and wildlife agency which is very concerned about wildlife. Our main concern, though, is that by providing a 10 percent limit per year, a State if it wanted to do any capital investment such as building trails, a visitor facility or nature center, would have to string out the billing of that facility over a number of years because of the limitation. That would be both inefficient and in our view counterproductive. Again, the States are going to have to put together a 5-year program with public involvement and we believe that the States are in the best position for determining priorities and a 10 percent arbitrary limit simply does not make sense particularly on a year to year basis.

On law enforcement, the State fish and wildlife agencies feel strongly that appropriate conservation law enforcement is an important part of a wildlife management program. Law enforcement personnel not only provide outreach to many communities and assist in conservation education, but law enforcement is necessary to guard against those who are included to take wildlife in disregard of the law, such as capture of wildlife for pets, which will be deterred by a law enforcement presence. Again the State has the discretion of spending up to 10 percent of the funds for law enforcement, and we believe that is where the discretion should rest.

On funding of 90 percent to the transition to 75 percent Federal share over time?. it its particularly important to States who have no ready source of match for this particular funding. States have historically used hunting and fishing license fees to match Pittman-Robertson and Wallop-Breaux programs. There is no parallel source of funding for this new OCS funding. States will have to work hard to develop the non-Federal source of the funds and it would be helpful if there is a transition pe-

riod to do so. States like Alaska, New Hampshire, Montana and Idaho are examples of States that have very little funding except that provided by hunters and anglers.

Finally, on raising the total amount of funding from $350 million to a ceiling of 10 percent (or $450 million), we recognize that this is difficult to do within the context of the total amount of money that can be provided. To place the program needs within context, however, we recognize that the States spend about $1.5 billion on less than 100 game and sportfish species. The need for the 1500 species we are talking about now is at least $1 billion per year. The $350 million will certainly be a great help to allow substantial progress to be made, but we simply want to emphasize that the need is significantly greater than the $350 million provided. Originally we were talking about 10 percent of the amount of OCS oil which would have provided about $450 million or so.

STATEMENT OF RINDY O'BRIEN, VICE PRESIDENT, PUBLIC POLICY THE WILDERNESS SOCIETY

Mr. Chairman and members of the committee, I appreciate the opportunity to submit this testimony for the record on S. 25, S. 2123, and S. 2181, bills to fund a variety of conservation programs through use of revenues received from Outer Continental Shelf oil and gas production.

On behalf of The Wlderness Society's 200,000 members nationwide and the many grassroots partners that have worked tirelessly for the past 35 years protecting the Land and Water Conservation Fund, today's hearing is a momentous occasion. The Wilderness Society founded in 1935 works to protect America's wilderness and wildlife and to develop a nationwide network of wild lands through public education, scientific analysis and advocacy. Our goals is to ensure that future generations will enjoy the clean air and water, wildlife, beauty and opportunities for recreation and renewal that pristine forests, rivers, deserts and mountains provide.

The Senate has an historic opportunity this year to create a lasting conservation legacy. By enacting legislation that will reinvest Outer Continental Shelf oil revenues into the preservation of America's wild and natural places, the 106th Congress can preserve irreplaceable natural resources that are an essential part of our nation's heritage.

The legislation before the committee today is perhaps the most far-reaching and complex piece of environmental legislation to be considered by Congress in the past decade. As the committee knows, The House of Representatives recently passed CARA legislation (H.R. 701) with a strong bi-partisan majority of 315 to 102. Over 2 years, the architects of H.R. 701 worked to accommodate the concerns of a wide range of interests. In the end, the bill was supported by a diverse coalition, cutting across partisan, geographic, and ideological lines.

The Wilderness Society believes this carefully crafted legislation is a sound starting point for the Senate's deliberations. Alongside our colleagues in the environmental community, we would welcome the opportunity to further improve this bill. But, we also clearly acknowledge the substantial progress already made in balancing competing interests.

The committee will be hearing testimony from other conservation organizations today on various aspects of these bills. I would like to focus my remarks on the Title II provisions dealing with the Land and Water Conservation Fund (LWCF). Over the 35-year history of LWCF, The Wilderness Society has been a relentless advocate for full funding of this critical conservation program.

As you know, when Congress created the Land and Water Conservation Fund in 1964, a portion of the revenues from Federal offshore oil and gas leases, amounting to about $900 million a year, was earmarked for the Fund to purchase and protect "areas of natural beauty and unique recreational value." But Congress never spent all of the money for its intended purpose. Between 1987 and 1997, $3 out of every $4 were spent elsewhere. During the same period, LWCF spending averaged just $230 million or 25 percent of the $900 million authorized to flow into the Fund. Congress did a little better in the early years of the Fund, but not much.

One of the principal motivations of this under-spending was to make the Federal budget appear to be less out of balance. But the failure to take full advantage of LWCF's potential has also been a result of insufficient commitment to the Fund's purpose in some corners of Congress. Senators, we can no longer afford that lack of commitment.

Despite operating with severely less funding than originally intended, LWCF has performed some small and large miracles for the American environment. This little known and, until recently, almost forgotten Fund was the invisible hand behind some of the most important and vital Federal land acquisitions of the past three

decades. On the Eastern seaboard, these include: the Cape Cod National Seashore in Massachusets, the New Jersey Pinelands, the expansion of the Florida Everglades, and the completion of the Appalachian National Scenic Trail. The Fund has preserved fisheries, wetlands, and wildlife habitats. The state-side portion, when it actually received any money, created scores of parks, soccer and baseball fields, community swimming pools, greenways and bikeways in all of our neighborhoods, including some of this nation's harshest urban settings.

Almost 7 million acres of land have been purchased with LWCF funds.

This committee has an opportunity to advance hundreds of additional projects such as these. It is an opportunity that comes in a time of both enormous need and extensive public support.

In 1998, of 148 State and local open space measures on the ballot, 124 were approved. That's a resounding 84 percent approval rating on measures which, collectively, committed over $5 billion in public revenues to preserving America's open spaces. The figures from 1999 are equally impressive. Of 102 open space ballot initiatives, 92 were successful. That's a 90 percent success rate and those 92 measures committed another $1.8 billion to public land acquisition.

Leaders all across the country, Democrats and Republicans alike, are stepping up to the plate to protect our natural heritage. It's time for the Senate to join them and when you do, you can be assured of broad public support. According to a recent survey conducted by the Luntz Research Companies, 88 percent of voters nationwide agree with the proposition that ''we must act now or we will lose many special places and, if we wait, what is destroyed or lost cannot be replaced.''

In The Wilderness Society's view, there are three elements essential to the final legislation as it relates to LWCF.

First, that legislation must permanently remove LWCF from the financial machinations that,

for far too long, limited its effectiveness.

This is the year to take LWCF off-budget once and for all. During the House debate, H.R. 701 was amended to make it clear that expenditures under this legislation will not occur if they diminish the funds available for Social Security and Medicare. We have no dispute with that provision. But, we firmly believe that efforts to protect open spaces deserve the same protection Congress has provided for the Highway Trust Fund and, most recently, the Federal Aviation Trust Fund.

If we can set aside money to pave it, we can set aside money to save it.

Here again, the American people agree. In the previously mentioned Luntz study, voters were asked what use should be made of any Federal off-budget trust funds. They chose protecting open space (45 percent) over building highways (37 percent) and airport construction (7 percent).

Second, the LWCF must be fully funded.

After years of diverting as much as 75 percent of the intended money out of LWCF, partial reparations are not good enough. The original bipartisan intentions of Congress in 1964 should be honored by funding LWCF at the full $900 million level.

Third, the LWCF should move forward unencumbered by new restrictions on how it operates.

The LWCF isn't broken, and there is no need to fix it. Those who are genuinely committed to its success will not, with one hand, finally give LWCF the financial resources it needs, while, with the other hand, taking away its effectiveness by adding new and needless restrictions on how the Fund works. Why hamstring the 30 years of success?

S. 25, one of the pieces of legislation before the committee, contains a number of needless and counter-productive restrictions on the Federal side of LWCF. The House wisely rejected those restrictions and we urge the Senate to do the same.

We also vigorously urge that the Senate reject any and all attempts to impose a ''no net gain'' provision on Federal land acquisition. The public lands now in existence were set aside for purposes other than today's environmental needs, and, as they are now, they are not sufficient to the ecological tasks we are imposing on them.

Today, development pressures on open spaces are unrelenting, gobbling up land resources that, as you all should recognize, are vital to the continued health, both economic and environmental, of our nation. Seven thousand acres of land are lost every day to development. And at least 110 species of plants and animals are now extinct in the United States.

When Congress allocates funds for a new highway or a new runway, it doesn't require that an equal-sized area by returned to an undeveloped State. Especially in an era of rapidly expanding development, decisions about protecting open spaces

should be made on the merits, unencumbered by an artificial "no net gain" limitation that has no support in either science or common sense.

I'd like to close my remarks by directly addressing the specious arguments being advanced by so-called "property rights" advocates who are working hard to defeat CARA legislation. Senators, they would have you believe that the bills you are considering today weaken the rights of private landowners. The reality is that the House-passed bill strengthens and clarifies their rights.

As Representative Don Young (R-Alaska), sponsor of the House-passed CARA, commented during the House debate, "For those that oppose the bill on private property rights, again I will tell them that this bill improves private property rights. It helps those people; it does not hurt them."

In fact, the House-passed bill contains a Protection of Private Property Rights section (Sec. 10). Section 10 says:

Nothing in the Act shall authorize that private property be taken for public use, without just compensation as provided by the Fifth and Fourteenth amendments to the United States Constitution.

Under the provisions, of this bill:

All transactions must be carried out with willing sellers. CARA prohibits the government from using adverse condemnation to acquire lands unless specifically authorized by Congress.

The Administration must seek to use exchange and conservation easements as alternatives to fee-simple acquisition.

The Administration must seek to consolidate Federal land holdings in States with checkerboard Federal land ownership patterns.

The Congressional representatives, Governor, local government officials and public (via a widely distributed local newspaper) must be notified of proposed acquisitions.

I believe that, the conservation community has gone out of our way to make certain that the concerns some real, some imagined—of those on the other side of this debate have been addressed in the development of the LWCF provisions of CARA legislation. The wide margin of the House vote indicates that a vast bipartisan majority of that body agrees that we have achieved a compelling and persuasive balance of competing interests.

RESPONSES BY RINDY O'BRIEN TO ADDITIONAL QUESTIONS FROM SENATOR CRAPO

Question 1. The Maintenance backlog on our public lands in immense, however, these bills propose to increase Federal ownership of lands. Does it make sense to require a cost analysis of future operations and maintenance costs associated with land to be acquired? If not, why?

Response. It is important to understand the reason why we have a backlog on our public lands. For 12 years under the Reagan Administration, lead initially by James Watt, Sec. Of DOI, the Republican administrations of Reagan and Bush cut dramatically the budgets for our public lands. The maintenance backlog is the result. With increased budgets and better economic security, more funds have been spent over the past 10 years to improve these agencies, and we are beginning to see results. But these increases don't even bring these agencies to baseline.

Almost all public lands are authorized by Congress. Many contain specific authorization levels, and do exactly as you request of a cost analysis. Congress requires CBO to score such legislation. Isn't your request one in the same? Would we not be duplicating efforts?

Question 2. The House passed version of CARA, H.R. 701, includes an amendment that would preclude the transfer of money to the CARA fund if the CBO does not certify that Congress is on-track to eliminate the national debt by 2013, or meet Social Security or Medicare obligations. Do you support a similar amendment to the Senate bills and why? If not, Why?

Response. Yes, we are seeking a dedicated funding trust, but do not believe it has to be constructed like Social Security and Medicare. We do not have a problem with it being structure in the same way that the Highway Trust and Aviation Trust bills are dedicated and under sequester rules if there is a national debt.

Question 3. Do you believe that the Federal Government is a better steward of land than private ownership? Why?

Response. There are good examples of stewardship in both the government and private ownership sectors. There are also examples of bad stewardship in both. It begs the important questions—there should be places in our country that the public has a right to access and use. We should not allow international and large corpora-

tions buy up the last remaining untamed lands of our nation for their own private use, denying families and others a chance to hunt, fish, picnic, etc.

Question 4. S. 2181 provides full funding for PILT. S. 2123 provides a match for PILT and Refuge Revenue Sharing. S. 25 is silent on both points. Given the impact of increased Federal land ownership on local communities, do you support providing full funding for PILT and Refuge Sharing as part of CARA? If not, Why?

Response. We have always supported and worked hard each year with the appropriations committee to achieve full funding of PILT and Refuge sharing.

Question 5. Do any of the CARA bills adequately address the operations shortfalls or maintenance backlog on Federal lands? If not, should the CARA bills address this problem? If not, why?

Response. We do hope the CARA proposal will contain money for backlog maintenance. We only ask that it not be at the expense of the LWCF fund. We, as a nation, can afford both.

RESPONSES BY RINDY O'BRIEN TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. Please elaborate on the Federal Government's role in State and local planning decisions under S. 25, S. 2123, and S. 2181.

Response. The Land and Water Conservation Fund was established 30 years ago. To ensure recreational opportunities are available for all Americans, the Land and Water Conservation Fund (LWCF) has a State matching-grant component. The state-side 50/50 match empowers communities to realize their own "green dreams" and recreational goals. This fund is distributed to States on a State formula that is designated as part of the authorizing bill. Each State must conduct its own inventory of needs and submit that inventory to the Secretary of Interior. Once such an inventory exists, the Secretary releases the fun to the Governor of the State. The Governor or his designee then distributes the funds to local and or stat projects that have demonstrated a 50 percent match. The projects do not have to be on the inventory, per se, although often they are. The program really is controlled at the State and local level.

Question 2. If the Department of Interior disagrees with a State's or locality's planning decision, could DOI withhold funds?

Response. The decision to approve projects rest with the Governor not DOI.

Question 3. I am concerned with the impact of S. 25, S. 2123, and S. 2181 on lands used for hunting and fishing. The flood of money provided by CARA will enable buying and turning over to the government, private lands currently used for hunting and fishing. This will subject the property's sporting use to the whim of public opinion, and a bureaucracy increasingly hostile to sport, fishing, trapping, and gun ownership.

An example of my concern is what happened in New York last year with the largest land purchase in that State's history. For over one hundred years, Champion International Timber Company and previous private owners has leased out 139,000 acres of its holdings for recreation, including fishing and hunting. When the State of New York purchased the land, the State's first "management" action was to eliminate hunting access and drastically limit other recreation uses. Included with these mandates was ordering the destruction of 298 hunting cottages used by 3,000 sportsmen each year.

Under S. 25, S. 2123, and S. 2181, how likely are scenarios like this?

Response. Actually, the CARA program will do just the opposite. I hear often from hunters and fishing folks that they are being denied access to lands that traditionally have been in private ownership and no are being sold to international corporations that fence and post no hunting and fishing access. Actually CARA would provide funding for conservation easements that would allow the both of two worlds. Private ownership could remain but corporations could be paid to allow the more traditional use of their property. There is no funding in the current stewardship arena to do that.

Question 4. Under S. 25, S. 2123, and S. 2181, how is the applicability of the Pittman Robertson Act expanded?

Response. I do not have expertise or knowledge of title III to address that question.

Question 5. Could the additional funds lead to abuses of the Pittman-Robertson fund?

Response. Do not know.

Question 6. Under S. 25, S. 2123, and S. 2181, what is the total scope of potential land acquisition?

Response. I do not know that anyone knows the answer to this question. There are thousands of inholders around the country that have been waiting for the appropriations of LWCF to acquire, as willing seller, their inholdings. This would allow the government to complete promises made years ago. I emphasize that the land acquisition needs have almost always (with a few exceptions) been by willing seller. This would also allow for land exchanges and consolidation to provide better management of our public lands.

Question 7. Under S. 25, S. 2123, and S. 2181, how much land acquisition power has any restrictions or protections placed upon it?

Response. S. 25 would have placed geographic restrictions. All bills contain language to strengthen the willing seller acquisition, and all bills insure the constitutional rights of property owners.

Question 8. Under S. 25, S. 2123, and S. 2181, what is the potential for significant increases in discretionary spending above and beyond what would be dedicated to the trust fund?

Response. None.

Question 9. Does creating a CARA trust fund violate the fiscal year 2001 budget resolution?

Response. Yes, the FYI, 2001 budget resolution would have to be amended. But, as I said in my testimony, if this nation can take highway building off-budget, it should spend a fraction of the money for preserving our parks and heritage. With the surplus funds of this government, amending the budget should not be an issue.

STATEMENT OF RODGER SCHLICKEISEN, DEFENDERS OF WILDLIFE AND THE NATURAL RESOURCES DEFENSE COUNCIL

Mr. Chairman and members of the committee, my name is Rodger Schlickeisen and I am President of Defenders of Wildlife, a national non-profit conservation organization representing the interests of 400,000 members and supporters. The mission of Defenders of Wildlife is the conservation of all plants and animals in their natural communities. I thank you for the opportunity to present this testimony today regarding the Conservation and Stewardship Act (S. 2181), the Conservation and Reinvestment Act (S. 2123) and the Conservation and Reinvestment Act (S. 25). I am presenting this testimony today on behalf of Defenders of Wildlife, the Natural Resources Defense Council, American Oceans Campaign, and the Center for Marine Conservation.

First, we are extremely grateful to authors and cosponsors of all the proposals that have been introduced in the Senate and appreciate their leadership and commitment in seeking to ensure funding for these critical conservation needs. We also thank the committee for holding this hearing and hope the committee will use its influence in assuring that any final conservation funding legislation is environmentally sound and truly provides dedicated funding for all covered programs.

Our highest legislative priority this Congress is the passage of sound legislation that will provide dedicated funding to aid in the conservation of our nation's imperiled biodiversity. To provide the ongoing means for achieving the landscape level conservation needed in this new century and to maintain and restore our once vibrant biological heritage, such legislation must include funding for a broad array of conservation tools including: land acquisition at the local, State, regional and Federal levels; permanent conservation easements for private landowners to conserve habitat on working lands; incentives for private landowners to recover threatened and endangered species; programs to protect and restore fragile coastal and marine resources; and funding to States for State wildlife and habitat conservation guided by a comprehensive habitat planning process. We also believe it to be absolutely imperative that any final legislative package "first, must do no harm." We have won nothing if we take a step forward by providing funding for critical conservation programs and then two steps back by doing it in such a way that results in irreparable damage to our coastal and marine areas.

Background

A 1998 survey by the American Museum of Natural History confirmed that a majority of scientific experts believe that we are in the midst of a mass extinction of living things. These scientists agree that:

the loss of species will pose a major threat to human existence in this century; during the next 30 years as many as one-fifth of all species alive today could become extinct; this so-called "sixth extinction" is the fastest in the Earth's 4.5 billion-year

history, but unlike prior mass extinctions, is primarily the result of human activity and not natural causes; biodiversity loss is a greater threat than the depletion of the ozone layer, global warming or pollution and contamination.

In the United States alone, there are over 1,200 species listed as endangered or threatened under the Endangered Species Act (ESA). Unfortunately, this list merely represents the tip of the iceberg. The Nature Conservancy currently lists more than 6,900 U.S. species as either critically imperiled, imperiled or vulnerable representing 1 in 3 of our native vertebrate, flowering plant and selected invertebrate species.

Equally troubling as the demise of wild species is the loss and degradation of entire ecosystems. A 1995 U.S. Department of the Interior report identified 82 ecosystem types in the United States that have lost more than 70 percent of their extent since European settlement. Of these, 27 have declined by more than 98 percent. These include natural communities from across the country, including eastern deciduous old-growth forest, oak savanna in the Midwest, pine rocklands in South Florida, canebrakes in the Southeast, native grasslands in California, and Palouse prairie in the Pacific Northwest.

The loss of wild species and ecosystems or collectively, biodiversity is clearly one of our most important environmental problems. Fortunately, this Congress has before it an historic opportunity to enact landmark legislation that will greatly increase the number of tools available to conserve our dwindling biodiversity.

I. S. 2181, THE "CONSERVATION AND STEWARDSHIP ACT, IS MORE EQUITABLE AND WILL ACHIEVE GREATER CONSERVATION BENEFITS THAN S. 2123 OR S. 25

S. 2181, the Conservation and Stewardship Act, distributes Federal funding more equitably than either version of the Conservation and Reinvestment Act by reducing the amount provided for coastal impact assistance and distributing it among other important conservation programs. S. 2181 removes problematic incentives for Outer Continental Shelf (OCS) activity off Alaska and more effectively restricts OCS impact grants to environmentally beneficial uses. Compared with S. 2123, S. 2181 provides more money for conservation easements and adds funding to protect lands of regional and national interest and urban forests. It also increases funding to protect important cultural and historic resources through the Historic Preservation Fund and adds funding for the Youth Conservation Corps and Forest Service programs to assist rural resource dependent communities. We recommend, however, expanding S. 2181's National Park System Resource Protection Fund in Title VI to cover Fish and Wildlife Service, Bureau of Land Management, Forest Service and Indian lands, similar to Title VI in S. 2123. We also think it important to note that even though funding provided to oil producing States in S. 2123 is excessive, the distribution of funding in the bill as a whole is more equitable than in S. 25 which does not fully fund the Land and Water Conservation Fund, and does not provide dedicated funding for conservation easements, endangered species recovery landowner incentives, coastal and marine conservation, Federal lands restoration or historic preservation.

S. 2181 also addresses major problems associated with both S. 25 and S. 2123 which will be discussed below. We therefore, strongly support and endorse the Conservation and Stewardship Act while acknowledging that a few changes are needed to perfect the bill. We will provide testimony regarding three of the areas under jurisdiction of the Environment and Public Works Committee: potentially damaging effects of coastal impact assistance upon habitat, State wildlife habitat conservation, and incentives for recovery of listed species. Because we think an intact and permanently funded Land and Water Conservation Fund is the very core of an effective conservation funding bill, we are including remarks on that as well.

II. S. 2181 WOULD REQUIRE DEVELOPMENT AND IMPLEMENTATION OF COMPREHENSIVE STATE WILDLIFE HABITAT CONSERVATION STRATEGIES

S. 2181, S. 2123, and S. 25 all propose to provide a portion of OCS revenues to fund State wildlife conservation programs a goal that we strongly support. These bills would all accomplish this goal by augmenting State fish and game agency funding through the existing Federal Aid in Wildlife Restoration Act (a.k.a. Pittman-Robertson). We strongly support the approach taken in S. 2181 because, of the three referenced bills, it is the only one that requires each State to develop a wildlife habitat conservation strategy that prioritizes the expenditure of Federal funds to comprehensively protect biodiversity. H.R. 4377, the House-passed version of CARA, is deficient because it does not contain a wildlife habitat conservation strategy provision.

In 1980, Congressman Forsyth and Senator Chafee cosponsored landmark legislation designed to provide much-needed financial assistance to State fish and game

agencies to begin to better address, in a comprehensive and proactive way, the conservation needs of the array of species that make up our wildlife heritage. The Fish and Wildlife Conservation Act (FWCA) recognized the many significant values of wildlife species, the majority of which are neither hunted, trapped or otherwise caught. It also recognized that the traditional sources of funding for wildlife management, such as those available through Pittman-Robertson, were so closely tied to game species, that "nongame species" were not receiving adequate conservation attention, and as one result, many were becoming listed as threatened and endangered. This far-sighted legislation sought to do two things. First was to establish a reliable source of funding for nongame management to complement the very successful game management programs of the State fish and wildlife agencies. The second was to ask the State fish and game agencies to develop and implement conservation plans and programs for nongame fish and wildlife. Although enacted into law, the FWCA was never funded by Congress.

Title III of S. 2181 embodies the spirit and goals of the FWCA it emphasizes the particular needs of species that are not hunted or fished and requires comprehensive State wildlife habitat conservation strategies but with refinements that recognize the fundamental value of biodiversity the full array of species and the natural communities and ecosystems they form across the landscape. It also recognizes that the leading threat to the maintenance of our biodiversity is the continued loss and degradation of habitat, and that without proper habitat protections, game and nongame species alike can become threatened or endangered species in short order.

I was extremely pleased, Mr. Chairman, to see in your letter to me of May 4, 2000, your agreement that Title III language in S. 2181 is superior to that in S. 2123. You stated, "I agree with you, however, that there are elements in Senator Bingaman's competing bill, S. 2181, that would improve on the language of CARA. For example, I will request that language outlining a process to dedicate funds for low population and declining species, be included in CARA as well. This language, expected to benefit primarily non game species, is similar to language contained in Title III of S. 2181." Mr. Chairman, your support will help ensure that this critical language is included in any final bill.

A Strategic Approach to State Wildlife Habitat Conservation

S. 2181's emphasis on sound, comprehensive planning is particularly important. Even with the significant funding levels proposed in all three bills, it will be necessary for the States to strategically prioritize and target how the money is spent most effectively and efficiently to conserve biodiversity. It is certainly not unreasonable or overly burdensome for Congress to require each State to develop write lay out on paper its vision and comprehensive wildlife habitat conservation strategy for spending its share of $350 million annually in Federal funds. S. 2181 recognizes the need for a comprehensive, state-wide assessment of our wildlife species, their habitat needs, the threats to these species and their habitats, and the management actions necessary to address those threats. It will ensure that each State undertake an intensive look at what is necessary to conserve all species. Equally important, it recognizes the need for meaningful public participation in the development, implementation and revision of State wildlife habitat conservation strategies. Twenty years after passage of the FWCA, with an ever-growing list of threatened and endangered species now more than 1,200 native species, 85 percent of which are at risk due to habitat loss the need for comprehensive state-based planning efforts has never been greater.

What are the key elements of state-based habitat conservation strategies?

1. They are broad-based, both biologically and institutionally. They cover all animal and plant species, but they can do so through a coarse filter (community-based) fine filter (rare, threatened, or endangered species occurrences) approach. They also should be done in coordination with other relevant State and Federal land and resource management agencies.

2. They identify the key habitat areas that must be maintained in current land uses to provide adequate habitat for all natural community types (the coarse filter) and all focal species (e.g. threatened, endangered, or otherwise of management concern, whether game or nongame).

3. They identify the key threats to focal species and essential habitats, and identify and prioritize management options and research needs for addressing those threats.

4. They use the best available data and information, such as State Gap Analysis and Natural Heritage data bases and, if necessary, identify additional survey needs where data gaps exist.

5. They establish a practical and informative program of monitoring and assessment of essential habitat and focal species status that can assist the agency in tak-

ing an adaptive management approach to conservation. Such programs should be geared to evolving the State's habitat conservation system plan on a periodic basis to address changing conditions.

6. As any good government planning exercise must, they provide for meaningful public participation in the development, implementation and periodic revision of the strategy.

7. They provide opportunities to educate and inform the public on the importance of conserving wild species and their habitats.

Entities in two States Florida and Oregon have attempted such comprehensive, state-wide habitat conservation strategies. In Florida, the effort was led by the Game and Freshwater Fish Commission, demonstrating what the State agencies could do with adequate funding of the FWCA. In Oregon, I am proud to say that the effort was led by Defenders of Wildlife and The Nature Conservancy, but with active participation and support from relevant State and Federal agencies, and the private sector. I have brought copies of each strategy and I offer them for the record and your consideration. Each effort has its own unique features but each serves as a prototype for the type of comprehensive, state-wide conservation planning that will be necessary to maintain our nation's biodiversity. This is the kind of far-sighted, proactive, problem-solving approach to conservation that was envisioned in the FWCA and that, with passage of a planning provision such as in S. 2181, can become a reality in all States.

We believe such planning exercises are absolutely essential to the effective and efficient conservation of our wildlife heritage, be it game, nongame, or endangered species. Properly done, such strategies could be the blueprints for biodiversity conservation success, and could provide a common framework for effective coordination for existing or new conservation programs at the Federal, State, and local levels.

The habitat conservation strategy provision in S. 2181 incorporates the above elements and is strongly supported by a broad spectrum of wildlife conservation groups. Last year a number of these groups including the International Association of Fish and Wildlife Agencies, Wildlife Management Institute, National Wildlife Federation, National Wild Turkey Federation and Defenders of Wildlife, among others, sent a letter to Congressman Don Young requesting that the very same planning language in S. 2181 be included in the House version of CARA. A copy of that letter is attached to my testimony.

Defenders has recently conducted a survey of State fish and game agencies, natural heritage programs, and State planning offices. More than a dozen States indicated strong interest in developing comprehensive habitat conservation plans. Many States indicated the lack of available funding as a major impediment to completing such plans.

Finally, we note that H.R. 4377, the House-passed bill, limits to 10 percent the amount of Title III funds that a State could spend on wildlife-related recreational projects. We think that this is a reasonable and appropriate restriction, given the existing biodiversity crisis and tremendous need among State wildlife agencies for substantially increased wildlife and habitat conservation funding. We urge that a similar provision be included in any final Senate legislation.

III. S. 2181 AND S. 2123 WOULD PROVIDE CRITICALLY NEEDED FUNDING FOR THE RECOVERY OF ENDANGERED AND THREATENED SPECIES

Defenders strongly supports Title IV of S. 2181, the Endangered and Threatened Species Recovery Fund, which would provide much needed and dedicated funding to assist in the recovery of those species of wildlife most in need endangered and threatened species. We also support a similar provision in S. 2123. Through non-regulatory incentives other than fee simple acquisition, this money would be available to those private landowners interested in assisting with the recovery of federally listed species. S. 25, however, includes no such provision.

The ESA is the most important piece of legislation ever enacted into law to conserve endangered species and their habitats. Since 1973, the ESA has prevented the extinction of hundreds of species and has helped focus attention on the need to conserve our nation's imperiled biodiversity. We can and must, however, do better. Due in part to improper implementation and inadequate funding, few species listed under the ESA have recovered. If we are to fulfill the goal of the ESA the conservation of endangered and threatened species and the ecosystems upon which they depend we cannot be satisfied with merely holding species at the brink of extinction. There must be a concerted effort to implement programs and actions that promote the recovery of listed species and their habitats.

Habitat loss is recognized as the primary factor leading to the endangerment of species in the United States. Much of that habitat is found on non-Federal lands.

Over 40 percent of all federally listed species occur exclusively on non-Federal lands, and over 60 percent of all listed species' populations are on non-Federal lands. Clearly, if we are to recover our nation's endangered and threatened species, we must conserve and restore their habitats on non-Federal lands.

S. 2181 and S. 2123 would help accomplish this goal by providing much needed funding for the purpose of enlisting the voluntary participation of private landowners in the recovery of endangered and threatened species. Under this provision, $50 million a year of dedicated funds would be available to the U.S. Fish and Wildlife Service and National Marine Fisheries Service for the purpose of assisting private landowners in the development and implementation of endangered and threatened species recovery agreements. This provision contains two important standards to guide the types of agreements to be funded, but without being so prescriptive as to restrict innovation. First, the agreement must clearly contribute to the recovery of an endangered or threatened species. Second, financial assistance under this program would be restricted to voluntary activities that are not otherwise required under law; mitigation performed under an ESA incidental take permit or statement would not be eligible.

IV. S. 2181 TAKES A SIGNIFICANT STEP FORWARD IN PREVENTING HARM FROM COASTAL IMPACT ASSISTANCE AND REQUIRING ENVIRONMENTALLY BENEFICIAL USES OF FUNDS

It is our view that the overarching goal for the coastal/ocean title of these bills must be protection and restoration of our nation's valuable and fragile coastal and marine resources. To achieve this, there must be no incentives to States or local governments to accept new offshore oil and gas activities, and the money allocated to States and local governments must be spent in ways that help, not harm, the environment. Of the bills addressed in our testimony today, S. 2181 comes closest to achieving these critical goals. Recognizing the need for a small number of changes, we strongly support and endorse it.

A. Incentives for OCS activity

A major issue surrounding the debate over CARA and related bills has been incentives to States and local governments to accept new offshore oil activities. Offshore oil development brings with it water pollution, air pollution, the potential for oil spills, as well as onshore roads, pipelines, refineries and other infrastructure that pose a major threat to coastal and marine areas. The problem of incentives has arisen in the context of the allocation formula of these bills, and in the source of OCS revenues used to fund all programs in CARA.

1. The allocation formula. S. 2123 allocates 50 percent of the $1 billion provided under Title 1 to the seven OCS States based on proximity to OCS leasing; this allocation is revisited every 5 years. The allocation scheme excludes leased tracts within the moratorium areas on which there was no production as of 1/1/99 from the calculation of which States get money and how much they get, a helpful step forward. However, since Alaska (outside of Bristol Bay) is not subject to the moratorium, the State will have an incentive to accept new leasing, given that the more leasing it has, the greater its share of the $500 million pie.

Compounding this problem, S. 2123 requires OCS States to directly pass through to local governments 50 percent of the State's total allocable share based in part (50 percent) on the locality's proximity to leasing. In the past, many local communities in Alaska have successfully fought offshore leasing, succeeding in getting sales canceled or modified in ways that reduce the impact. Local communities were key in getting the Governor of Alaska to oppose leasing in Bristol Bay, Shelikoff Strait, Lower Cook Inlet, and elsewhere. The proximity-linked pass through will undermine this opposition by providing a major incentive for local governments and the State to accept more OCS leasing. Without effective State and local opposition, there will be more leasing in Alaska, threatening national parks, wildlife refuges, wilderness areas and marine and coastal areas in the State.

Alaska has more coastline than the continental United States and some of the nation's richest and most productive marine areas. Sensitive areas in or adjacent to OCS areas open for potential leasing include the Bering Sea, one of the world's most productive fishing grounds, the Gulf of Alaska, Glacier Bay National Park, the Tongass National Forest and two dozen national wildlife refuges, parks and forests. These coastal and marine resources constitute national treasures too precious to risk. The incentives for offshore oil activity off Alaska in these bills must be removed.

S. 2181 makes a very helpful step toward this goal by eliminating the pass through to local governments, an improvement we very strongly support. Deleting the pass through not only dramatically reduces the incentive for OCS development, but also eliminates concerns about the uses of Title I money by local governments

(see discussion below). In addition, the overall allocation to the OCS States based on proximity is much smaller in S. 2181 ($100 million vs. $500 million in CARA), which has the effect of reducing the incentive. For these reasons, we view S. 2181 as a critical step forward. At the same time, however, we remain concerned that the State of Alaska will continue to benefit financially from accepting new OCS activity under S. 2181. We recommend that this incentive be removed from the final bill.

The approach in S. 25 is similar to that in S. 2123, except that S. 25 does not exclude the moratorium States and their local governments from receiving money based on new production, providing an incentive for the moratorium States and their local governments to eliminate the moratorium and accept new leasing and production on existing leases. For this and other reasons discussed below, we oppose S. 25.

The House-passed version of CARA represents an important improvement over S. 2123 with respect to the allocation formula. The House managers agreed to an amendment that removed the 5-year revisitation of the State allocation, in essence adopting the snapshot approach. Under the House-passed version of CARA, a State's allocation will not change, no matter how much leasing it accepts. There is some remaining ambiguity regarding whether local government allocation is subject to the same snapshot approach, although in a colloquy the managers indicated that was their intent. While we strongly recommend eliminating the pass through to local governments altogether, if there is to be a pass through, clarifying language in the bill itself to ensure the snapshot applies to the local government allocation is essential. Other changes needed to the House-passed bill are addressed below.

2. Revenues Under S. 2181, S. 2123, and the House-passed version of CARA., "Qualified OCS revenues" fund all three Titles of CARA. All of these bills exclude revenues from tracts within the moratorium areas on which there was no production as of 1/1/99, which is a helpful step forward (in contrast, S. 25 does not). However, revenues from leasing and production in Alaska (outside of Bristol Bay) would fund all titles of these bills. As we have noted, this creates a major incentive for various beneficiaries of the bill to support new leasing and development in Alaska in order to provide sufficient revenues for the activities funded by the bill. This is particularly the case if OCS revenues from the Gulf of Mexico start declining and revenues from Alaska are needed to make up the shortfall. As the Oil and Gas Journal noted in January, "oil lobbyists would like to see it [CARA] pass in the hope that it would give inland States a vested interest in ensuring that offshore drilling continues at current levels." We favor removing Alaska revenues from funding any of the titles of these bills in the same way that revenues from the moratorium areas are excluded.

B. Uses of Title I funds and oversight

CARA and its relatives have the potential to become among the most important conservation initiatives of the new century. By providing landmark levels of permanent funding for critical wildlife, land, and historic preservation programs, these bills will significantly advance conservation and protection of our nation's natural heritage. We strongly believe that the coastal and ocean titles of these bills must be equally conservation oriented. To accomplish this, it is crucial that Title I funds be used to help, not harm the environment. Unfortunately, S. 2123, S. 25 and the House passed version of CARA do not achieve this goal.

As noted above, Title I of S. 2123 and the House-passed version of CARA provide $1 billion per year to coastal States, the bulk of which goes to the seven OCS States, (California, Alaska, Florida, Louisiana, Texas, Mississippi and Alabama). These bills require the States to spend the money on one or more uses, most of which are environmentally beneficial. Unfortunately, however, there is nothing in these bills to prevent the OCS States (and some non-OCS States that may be affected by OCS activity in another State) from spending most or all of the more than $700 million they will collectively get each year on environmentally damaging onshore infrastructure, including roads, ports, jetties, groins, and similar activities. While the bills provide for Federal oversight, such oversight is of limited utility in the absence of standards in the bill ensuring that the money will be spent in a manner that does not harm the environment.

In addition, we have major concerns about the pass through to local governments contained in both bills. Local governments may lack jurisdiction or expertise to carry out many if not most of the conservation uses permitted in the bill, leaving them with few options other than construction.

Furthermore, both bills give the Interior Department oversight authority over State expenditures of Title I funds, even though the majority of the permitted uses fall under the jurisdiction and expertise of the Commerce Department. Neither bill

provides desperately needed funding for existing Federal coastal and marine programs. Finally, the 60 day approval process in Title I would preclude meaningful review of State plans under NEPA, CZMA, etc.

S. 25 places virtually no restrictions on the uses of Title I money. While the States may use the money for good environmental projects, there is no requirement that they do so. Indeed, States and localities could use the money for a huge array of purposes. While S. 25 requires the States to develop plans for use of the money and to certify the plans to the Secretary of the Interior, the Secretary is given no authority to review and approve the plans. We are extremely concerned about allocating huge sums to the States with essentially no controls and no Federal oversight.

In contrast, S. 2181 establishes an "Ocean and Coast Conservation Fund" of $365 million and requires coastal States to spend their revenues on an array of environmentally beneficial purposes based on demonstrated conservation and protection needs. The Fund prioritizes State plans supporting State and Federal laws governing coastal and marine protection. S. 2181 also provides modest funding for Federal coral reef protection, a step in the right direction of providing critically needed funding to supplement appropriations for existing Federal marine and coastal protection programs. The impact assistance section of the bill requires the OCS States to spend the additional $100 million provided only to them only to mitigate the many environmental impacts associated with offshore oil. Finally, by avoiding the pass-through and giving principal oversight authority to the Secretary of Commerce, S. 2181 helps ensure that funds will be used to help, not hurt, the environment. Thus, S. 2181 represents a very important step forward.

In conclusion, it is critically important that the coastal and marine title of the final legislation be a positive step forward for the environment. To achieve this, the final legislation must adhere to the following principles:

1. The allocation to coastal States and local governments should be principally based on shoreline miles and population. If OCS activity must be a factor, it should be based on leasing as of the date of enactment (the "snapshot approach") to avoid creating incentives for new OCS activity.

2. Revenues funding the legislation should not include revenues from OCS activity in the moratorium areas (with the exception of tracts already in production as of the date of enactment) or off Alaska.

3. There must be clear standards in the bill specifying that Title I funds must be used ONLY to benefit the environment. Infrastructure that does not satisfy this requirement is not an appropriate use of Title I funds. Such standards must be accompanied by effective oversight by the Federal agency with relevant jurisdiction and expertise to ensure that the standards in the bill are met.

4. There must be no mandatory pass through as long as the allowable uses in Title I remain potentially destructive and as long as the local government allocation is linked to new leasing; and

5. The bill should include supplementary, critically needed funding for existing Federal coastal and marine conservation programs.

IV. S. 2181 WOULD ENSURE FULL AND PERMANENT FUNDING FOR LWCF

One of the major tools we have available to us to protect the habitat essential to maintain our biodiversity heritage is the Land and Water Conservation Fund (LWCF). Full and dedicated funding for the LWCF has been a top priority for the environmental community for many years and has been a driving force in the various conservation funding proposals currently in play. We strongly support full and mandatory funding for LWCF without any burdensome new restrictions. Of the bills covered in our testimony today, only S. 2181 meets these criteria. Full and guaranteed funding for LWCF is needed both to address the estimated $10–12 billion in current acquisition needs for our National Wildlife Refuges, Forests, Parks, and Bureau of Land Management special areas and to give States and local entities the resources they need to preserve dwindling vestiges of habitat and green space.

The ability to acquire land across a continuum of jurisdictions Federal, State, and local is a critical tool in the increasingly difficult battle to preserve what remains of our nation's dwindling wildlife habitat and natural ecosystems. Land acquisition of core habitat reserve areas and green space must serve as the essential anchor for other conservation tools funded in these bills such as easements, private landowner incentives, and State wildlife conservation programs. As our nation's population grows by about 2.5 million people annually, accompanying development and sprawl continue to fragment and destroy habitat. Loss of habitat is the primary cause of species endangerment and will lead to more listings under the Endangered Species Act.

In addition to the 1995 DOI report cited earlier, a1995 report by Defenders, "Endangered Ecosystems: A Status Report on America's Vanishing Habitat and Wildlife" found that extensive habitat destruction is reaching the point where the Nation faces the loss of not just thousands of species, but hundreds of natural ecosystems as well. The report identified the 21 most endangered ecosystems which include the south Florida landscape, southern Appalachian spruce fir forest, California native grasslands, southwest riparian forests, southern California coastal sage scrub, and tallgrass prairie. The 10 States with the greatest overall risk of ecosystem loss were found to be Florida, California, Hawaii, Georgia, North Carolina, Texas, South Carolina, Virginia, Alabama, and Tennessee; however all States were found to have serious problems.

A secure and adequate stream of LWCF funding is absolutely necessary to help slow this loss before it accelerates further. S. 2181 provides full mandatory funding for both Federal and State LWCF, at $450 million each, but still gives Congress oversight by requiring the President to submit a list of proposed projects each year which Congress can then change through legislation. We strongly support this approach.

Concerns with LWCF titles in S. 25 and S. 2123

In contrast, S. 25, which funds LWCF as a percentage of OCS receipts and funds the Urban Parks and Recreation Recovery program out of LWCF, does not provide full LWCF funding. S. 25 also imposes unacceptable restrictions on Federal LWCF projects; restrictions that would limit needed flexibility and could result in unforeseen obstacles and unnecessary delays for high priority projects and "willing seller" landowners.

The first of these restrictions would require subsequent and specific authorization for funding of each Federal acquisition in excess of $5 million. This is unnecessary and duplicative, as Federal acquisition is already authorized in a number of statutes. And it would put numerous Federal projects right back where they are now—unnecessarily delayed because funding is unavailable. For example, even under the existing acquisition process, landowners are routinely told by the Fish and Wildlife Service that they must wait at least one and one-half to 2 years for Congress to provide funding. Examples of projects that could be affected are numerous, including some in excess of $5 million proposed in the President's fiscal year 2001 budget such as acquisitions for BLM California Wilderness, Florida's Archie Carr, Florida Keys, Ding Darling, and Pelican Island National Wildlife Refuges, Colorado's Great Sand Dunes National Monument, Virginia's Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Pennsylvania's Gettysburg National Military Park, Wyoming's Grand Teton National Park and Uncompahgre (CO), Deerlodge (MT), and Coconino (AZ) National Forests.

The second restriction, requiring that two-thirds of yearly funding be spent east of the 100th meridian imposes an arbitrary geographic limitation that could affect new opportunities similar to the recent Headwaters Forest and New World Mine projects and timely acquisitions from willing sellers of inholdings in a number of western States including Washington, Oregon, California, Montana, Wyoming, Idaho, Nevada, Utah, Colorado, New Mexico, and Arizona. Flexibility must be maintained to take advantage of conservation opportunities where they exist, rather than imposing arbitrary geographic limitations on where moneys can be spent.

The third restriction would limit expenditure of funds to lands exclusively within exterior boundaries of our current land management systems. While most acquisition takes place within boundaries, Federal agencies have been allowed flexibility in this area, for example, where single ownerships transect agency boundaries. Without this flexibility, such landowners would be forced to split their acreage or sell privately. Moreover, this provision would affect the National Forest System's current authorization allowing acquisition of lands adjacent to its boundaries. The ability of the National Forest System to acquire adjacent lands can be particularly important in preventing fragmentation of habitat and establishing wildlife corridors. A prime example of an ongoing project which could be jeopardized by this language is the North Florida Wildlife Corridor or Pinhook Swamp which eventually will provide a linkage between the Okeefenokee National Wildlife Refuge in Georgia and the Osceola National Forest in Florida. This linkage would complete a large, regionally significant conservation area providing a stronghold for wide-ranging species such as the Florida black bear, a species that has pushed into areas so small that a predominant cause of mortality is motor vehicle collisions. The North Florida Wildlife Corridor is looked to nationally as an example of a successful public-private-non-profit cooperative venture to enhance the value of protected areas by establishing their connection as one major ecosystem and for this reason was identified as a model for future land acquisitions in the 1993 National Research Council study

Setting Priorities for Land Acquisition. This purchase is also important in protecting a recharge area for the aquifer that supplies drinking water for more than 20.5 million citizens of Florida and Georgia and will be open as a recreation area for hiking, fishing, hunting, camping, and wildlife observation.

We also have concerns with the LWCF title in S. 2123. We are pleased that S. 2123 does provide the full $900 million for LWCF, split evenly between Federal and State programs. However, Federal LWCF is singled out to be treated differently from every other program in the bill by still requiring action by the appropriators before moneys can be spent. Furthermore, if the Appropriations Committee does not expend the full $450 million for Federal LWCF in a given year the unobligated balances do not remain available; thus a subsequent Congress is prevented from making up the prior year's shortfall in a subsequent year. We are also concerned that administrative costs for all activities funded under S. 2123 are limited to not more than 2 percent of their total operation, a provision that could be crippling for the Federal LWCF program. Currently, the land agencies' administrative expenses range from 10–20 percent, since the appropriators fund realty staff and other needed activities such as appraisals through the LWCF account. We were also very pleased that S. 2123 removed some of the most crippling procedural restrictions in S. 25; however S. 2123 still contains some potentially problematic procedural restrictions. One of these would require consideration of other alternatives to acquisition before moving forward with Federal land acquisition projects and could provide a basis for future litigation and interpretation by the courts that could be detrimental to future land acquisitions. Another would require a willing seller or Congressional authorization before acquisition projects could proceed. While adverse condemnation seldom ever happens, this flexibility should be maintained if needed for quick protection of important national resources.

An additional concern is that neither version of CARA contains a flexible funding program to allow land acquisition for non-Federal lands of regional and national significance. These projects, such as the Northern Forest of New England, may go unaddressed because funding available through stateside LWCF is inadequate to meet these needs, especially in regions of low population which do not fare well in the stateside formula. In contrast, S. 2181 provides $125 million for competitive grants to help conserve these critical areas. It should also be noted that the House-passed version of CARA, H.R. 4377, has been amended to include such a program, however no funding has been identified and allocated for it.

Conclusion

In conclusion, our organizations believes there is an historic opportunity in the 106th Congress to pass landmark legislation to fund the menu of programs needed to help protect our magnificent natural heritage as we move into the 21st century. We look forward to working with the members of this committee, the Senate Energy and Natural Resources Committee, and with sponsors of all the various bills to pass a sound conservation funding bill this year. Thank you.

INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES,
Washington, DC 20001, August 31, 1999.

Hon. DON YOUNG, *Chairman,*
Committee on Resources,
U.S. House of Representatives,
Washington, DC 20515.

DEAR CONGRESSMAN YOUNG: We write to express our sincere appreciation for your continued efforts to come to consensus language on the "Conservation and Reinvestment Act" (H.R. 701) which can be reported out of the Resources Committee with a strong, bipartisan vote. Your efforts over the last year to move ahead will result ultimately, we believe, in the most comprehensive and significant conservation funding initiative in the last half of this century. President Theodore Roosevelt's efforts on one end, and yours on the other to provide the conservation "bookends" for this century. We appreciate your willingness to work with us and others to achieve this objective.

Toward this end, we enclose a product of several weeks of deliberation within the wildlife conservation community, which includes a new finding and sets forth in more detail the strategy for a wildlife conservation program called for in Title III of H.R. 701. This language simply outlines a process of assessing species population status and distribution, habitat availability, and factors contributing to the decline of species or habitat, which the State fish and wildlife agencies will use in determining the needs for fish and wildlife conservation in their States. Through this process

the States will then determine whate their priorities are for spending funds available under CARA (Title III) to address the needs of the diverse array of fish and wildlife species in their State. H.R. 701 calls for a State process for public involvement as program decisions are made and implemented. We urge you to ensure that the opportunity for broad public involvement is retained in the final legislation. We, as do you, recognize substantial unmet conservation needs for so-called "non-game" species, and this language outlines a process for unmet needs to be identified and spending priorities decided by the States. The strategy language anticipates that low population and declining species in most cases will be non-game species.

The undersigned organizations strongly support the attached language and believe it will significantly improve Title III. We encourage you to incorporate this language during markup.

A few organizations are interested in further improvements to Title III. All of our organizations are committed to working with you to achieve successful legislation this year.

Thank you again for your efforts.

Sincerely,

ROGER HOLMES, *President,*
International Association of Fish and Wildlife Agencies.

BRUCE SHUPP, *National Conservation Director,*
BASS, Inc.

CHARLES DUNCAN, *President,*
Association of Field Ornithologists.

CRAIG HANSON, *Vice Chair for Conservation,*
Pacific Seabird Group.

PAUL GREEN, *Executive Director,*
American Bird Association.

STEPHEN BROWN, *Coordinator,*
U.S. Shorebird Conservation Plan.

JAMES CORVEN, *Director,*
Western Hemisphere Shorebird Reserve Network.

STEVE WALKER, *Associate Executive Director,*
Bat Conservation International.

JOHN FLICKER, *CEO,*
National Audubon Society.

DANIEL PEDROTTI, *President,*
Boone & Crockett Club.

MIKE DENNIS, *General Counsel,*
The Nature Conservancy.

PAUL BAIACH, *President,*
Birder's Exchange.

MARK VAN PUTTEN, *President & CEO,*
National Wildlife Federation.

RODGER SCHLICKEISEN, *President,*
Defenders of Wildlife.

DOUG GRANN, *President & CEO,*
Wildlife Forever.

ROLLIN SPARROWE, *President,*
Wildife Management Institute.

THOMAS FRANKLIN, *Wildlife Policy Director,*
The Wildlife Society.

PAUL HANSEN, *Executive Director,*
Issak Walton Lead of America.

ROB KECK, *Executive Vice President & CEO,*
National Wild Turkey Federation.

AMENDMENT TO PROVIDE FOR STATE WILDLIFE CONSERVATION STRATEGIES UNDER TITLE III OF H.R. 701, THE "CONSERVATION AND REINVESTMENT ACT OF 1999"

"(e) WILDLIFE CONSERVATION STRATEGY—Any State that receives an apportionment pursuant to section 4(c) shall within 5 years of the date of the initial apportionment develop and begin implementation of a wildlife conservation strategy based upon the best available and appropriate scientific information and data that——

"(1) uses such information on the distribution and abundance of species of wildlife, including low population and declining species as the State fish and wildlife department deems appropriate, that are indicative of the diversity and health of the wildlife of the State;

"(2) identifies the extent and condition of wildlife habitats and community types essential to the conservation of species identified under paragraph (1);

"(3) identifies the problems which may adversely affect the species identified under paragraph (1) or their habitats, and provides for priority research and surveys to identify factors which may assist in restoration and more effective conservation of such species and their habitats;

"(4) determines those actions which should be taken to conserve the species identified under paragraph (1) and their habitats, and establishes priorities for implementing such conservation actions;

"(5) provides for periodic monitoring of species identified under paragraph (1) and their habitats and the effectiveness of the conservation actions determined under paragraph (4), and for adapting conservation actions as appropriate to respond to new information or changing conditions;

"(6) provides for the review of the State wildlife conservation strategy and, if appropriate, revision at intervals of not more than 10 years; and

"(7) provides for coordination to the extent feasible by the State fish and wildlife department, during the development, implementation, review, and revision of the wildlife conservation strategy, with Federal, State and local agencies and Indian tribes that manage significant areas of land or water within the State, or administer programs that significantly affect the conservation of species identified under paragraph (1) of their habitats.

RESPONSES BY RODGER SCHLICKEISEN TO ADDITIONAL QUESTIONS FROM SENATOR CRAPO

Question 1. The maintenance backlog on our public lands is immense, however, these bills propose to increase Federal ownership of lands. Does it make sense to require a cost analysis of future operations and maintenance costs associated with land to be acquired? If not, why?

Response. As we said in our testimony, the backlog of needed acquisitions in existing Federal land management units is estimated at $10–12 billion. Moreover, loss of habitat is the primary cause of species endangerment and will lead to more listings under the Endangered Species Act. Equally troubling as the demise of wild species is the loss and degradation of entire ecosystems. A 1995 U.S. Department of the Interior report identified 82 ecosystem types in the United States that have lost more than 70 percent of their extent since European settlement. Of these, 27 have declined by more than 98 percent. Land acquisition must move forward as conservation opportunities arise to address these pressing needs and before inflation escalates purchase prices beyond reach. Once we acquire the lands we can turn to ensuring operations and maintenance needs are accurately estimated and then funded through the Interior and Related Agencies appropriations bill. The bottom line is that both of these areas—acquisition and operations/maintenance—must be prioritized in the Federal budget; up until now, that has not happened.

Question 2. The House-passed version of CARA, H.R. 701, includes an amendment that would preclude the transfer of money to the CARA fund if the CBO does not certify that Congress is on-track to eliminate the national debt by 2013, or meet Social Security or Medicare obligations. Do you support a similar amendment to the Senate bills and why? If not, why?

Response. No. We opposed that amendment in the House and oppose any similar amendment in the Senate. Any legislation that is passed should follow the principles established in the original Land and Water Conservation Fund Act and Congressional intent at the time—that the funding from the depletion of one non-renewable resource ought to be dedicated to protect another nonrenewable resource and its spending guaranteed. This promise was made with the passage of LWCF more than 30 years ago—had it been kept there would be no need for the current legisla-

tion. Protection of our environment is no less important than other priorities, such as transportation, and its funding should be assured.

Question 3. Do you believe that the Federal Government is a better steward of land than private ownership? Why?

Response. Yes, in many cases. However, it is clear that the total amount of land needed for wildlife conservation will never be achieved by outright acquisition. Management of private working lands to maintain the current habitat base will complement protection afforded by Federal and state-owned lands.

Question 4. S. 2181 provides full funding for PILT. S. 2123 provides a match for PILT and Refuge Revenue Sharing. S. 25 is silent on both points. Given the impact of increased Federal land ownership on local communities, do you support providing full funding for PILT and Refuge Sharing as part of CARA? If not, why?

Response. Yes, we support full funding for both as part of CARA.

Question 5. Do any of the CARA bills adequately address the operations shortfalls or maintenance backlog on Federal lands? If not, should the CARA bills address this problem? If not, why?

Response. No, the CARA bills should not address this problem. Providing funding for the operations and maintenance needs of the agencies is not the purpose of the CARA bills. These needs could be handled in the regular appropriation process if the Interior Appropriations Subcommittee were given an adequate 302(b) allocation. However, we do not oppose the inclusion of a title that provides a modest amount to meet some of these needs, such as Title VI, Federal and Indian Lands Restoration in S. 2123 and H. R. 4377, the House-passed CARA bill. We would not support reducing funding for any of the conservation titles in the bill in order to provide this operations and maintenance funding, however—this amount would either have to be additive or come out of the coastal impact assistance portion.

RESPONSES BY RODGER SCHLICKEISEN TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. Please elaborate on the Federal Government's role in State and local planning decisions under S. 25, S. 2123, and S. 2181.

Response. A key purpose of these bills is to transfer revenues to State and local governments for worthwhile conservation purposes. The requirements for State and local planning under the bills are currently minimal and, if anything, should be expanded. For example, S. 25 and S. 2123 should include the language currently in S. 2181 requiring development and implementation of comprehensive State wildlife conservation strategies for Title III, which provides funding for State wildlife conservation.

Question 2. If the Department of the Interior disagrees with a State's or locality's planning decision, could DOI withhold funds?

Response. The current planning requirements in the bill are so general and minimal we find it difficult to foresee a circumstance under which DOI would be able to withhold funds.

Question 3. I am concerned with the impact of S. 25, S. 2123, and S. 2181 on lands used for hunting and fishing. The flood of money provided by CARA will enable buying and turning over to the government, private lands currently used for hunting and fishing. This will subject the property's sporting use to the whim of public opinion, and a bureaucracy increasingly hostile to sport fishing, trapping, and gun ownership.

An example of my concern is what happened in New York last year with the largest land purchase in that State's history. For over one hundred years, Champion International Timber Company and previous private owners has leased out 139,000 acres of its holdings for recreation, including fishing and hunting. When the State of New York purchased the land, the State's first "management" action was to eliminate hunting access and drastically limit other recreation uses. Included with these mandates was ordering the destruction of 298 hunting cottages used by 3,000 sportsmen each year.

Under S. 25 , S. 2123, and S. 2181, how likely are scenarios like this?

Response. We believe it is purely speculative that acquisition of lands by Federal and State governments would result in a decrease of use by sporting interests. In fact, many hunting and fishing groups, for example the Izaak Walton League, Wildlife Management Institute, and the National Wild Turkey Federation, support the legislation.

Question 4. Under S. 25, S. 2123, and S. 2181, how is the applicability of the Pittman-Robertson Act expanded?

Response. The applicability of the Pittman-Robertson Act (P-R) is not expanded under these bills—the bills simply utilize P-R to set up a new program/subaccount for wildlife conservation. Funding and any requirements would be separate from the current P-R program.

Question 5. Could the additional funds lead to abuses of the Pittman-Robertson fund?

Response. No, again, a new subaccount is established.

Question 6. Under S. 25, S. 2123, and S. 2181, what is the total scope of potential land acquisition?

Response. The bills provide up to $900 million per year for LWCF, the primary conduit for land acquisition in the bills.

Question 7. Under S. 25, S. 2123, and S. 2181, how much land acquisition power has any restrictions or protections placed upon it?

Response. As we said in our testimony, under S. 25 and S. 2123, the Federal LWCF is subject to burdensome and unnecessary new restrictions which we unequivocally oppose. These restrictions would limit needed flexibility and could result in unforeseen obstacles and unnecessary delays for high priority projects and "willing seller" landowners.

S. 25 has three unacceptable restrictions. The first of these restrictions would require subsequent and specific authorization for funding of each Federal acquisition in excess of $5 million. This is unnecessary and duplicative, as Federal acquisition is already authorized in a number of statutes. . And it would put numerous Federal projects right back where they are now—unnecessarily delayed because funding is unavailable. For example, even under the existing acquisition process, landowners are routinely told by the Fish and Wildlife Service that they must wait at least one and one-half to 2 years for Congress to provide funding. Examples of projects that could be affected are numerous, including some in excess of $5 million proposed in the President's fiscal year 2001 budget such as acquisitions for BLM California Wilderness, Florida's Archie Carr, Florida Keys, Ding Darling, and Pelican Island National Wildlife Refuges, Colorado's Great Sand Dunes National Monument, Virginia's Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Pennsylvania's Gettysburg National Military Park, Wyoming's Grand Teton National Park and Uncompahgre (CO), Deerlodge (MT), and Coconino (AZ) National Forests.

The second restriction, requiring that two-thirds of yearly funding be spent east of the 100th meridian imposes an arbitrary geographic limitation that could affect new opportunities similar to the recent Headwaters Forest and New World Mine projects and timely acquisitions from willing sellers of inholdings in a number of western States including Washington, Oregon, California, Montana, Wyoming, Idaho, Nevada, Utah, Colorado, New Mexico, and Arizona. Flexibility must be maintained to take advantage of conservation opportunities where they exist, rather than imposing arbitrary geographic limitations on where moneys can be spent.

The third restriction would limit expenditure of funds to lands exclusively within exterior boundaries of our current land management systems. While most acquisition takes place within boundaries, Federal agencies have been allowed flexibility in this area, for example, where single ownerships transect agency boundaries. Without this flexibility, such landowners would be forced to split their acreage or sell privately. Moreover, this provision would affect the National Forest System's current authorization allowing acquisition of lands adjacent to its boundaries. The ability of the National Forest System to acquire adjacent lands can be particularly important in preventing fragmentation of habitat and establishing wildlife corridors. A prime example of an ongoing project which could be jeopardized by this language is the North Florida Wildlife Corridor or Pinhook Swamp which eventually will provide a linkage between the Okeefenokee National Wildlife Refuge in Georgia and the Osceola National Forest in Florida. This linkage would complete a large, regionally significant conservation area providing a stronghold for wide-ranging species such as the Florida black bear, a species that has pushed into areas so small that a predominant cause of mortality is motor vehicle collisions. The North Florida Wildlife Corridor is looked to nationally as an example of a successful public-private-non-profit cooperative venture to enhance the value of protected areas by establishing their connection as one major ecosystem and for this reason was identified as a model for future land acquisitions in the 1993 National Research Council study Setting Priorities for Land Acquisition. This purchase is also important in protecting a recharge area for the aquifer that supplies drinking water for more than 20.5 mil-

lion citizens of Florida and Georgia and will be open as a recreation area for hiking, fishing, hunting, camping, and wildlife observation.

Under S. 2123, Federal LWCF is singled out to be treated differently from every other program in the bill by still requiring action by the appropriators before moneys can be spent. Furthermore, if the Appropriations Committee does not expend the full $450 million for Federal LWCF in a given year the unobligated balances do not remain available; thus a subsequent Congress is prevented from making up the prior year's shortfall in a subsequent year. We are also concerned that administrative costs for all activities funded under S. 2123 are limited to not more than 2 percent of their total operation, a provision that could be crippling for the Federal LWCF program. Currently, the land agencies' administrative expenses range from 10–20 percent, since the appropriators fund realty staff and other needed activities such as appraisals through the LWCF account. Other restrictions in S. 2123 would also be damaging to the Federal LWCF. One of these would require consideration of other alternatives to acquisition before moving forward with Federal land acquisition projects and could provide a basis for future litigation and interpretation by the courts that could be detrimental to future land acquisitions. Another would require a willing seller or Congressional authorization before acquisition projects could proceed. While adverse condemnation seldom ever happens, this flexibility should be maintained if needed for quick protection of important national resources. Still another requires extensive notification before acquisition projects can move forward.

Question 8. Under S. 25, S. 2123, and S. 2181, what is the potential for significant increases in discretionary spending above and beyond what would be dedicated to the trust fund?

Response. Assuming the question refers to programs funded in the CARA legislation, we would not foresee significant increases in discretionary spending for these programs as long as the bills truly provide full and mandatory funding.

Question 9. Does creating a CARA trust fund violate the fiscal year 2001 budget resolution?

Response. The CARA legislation anticipates that the budget resolution would be reconciled to provide the mandatory funding levels, a task that should prove simple given the ever-increasing surplus.

STATEMENT OF MICHAEL J. HARDIMAN, AMERICAN LAND RIGHTS ASSOCIATION

Thank you Mr. Chairman for inviting me to testify today.

I represent the American Land Rights Association. ALRA is a twenty-three year old nationwide grassroots organization that advocates private property rights and recreational and commercial access to Federal lands. Our membership includes small property owners and Federal permitees in all 50 States.

Personally, I am an inholder of private property located in California that is surrounded by the Bureau of Land Management. I purchased the parcel 11 years ago, anticipating that access to government owned land would continue to be cutoff by the Desert Protection Act and other laws. That prediction has certainly held true. I use the property for recreational purposes such as camping and as a base camp for rock climbing and hiking.

On a per capita basis, S. 2123 is a remarkable cash cow for two States, Louisiana and Alaska. The average State benefits less than $11 per person, per year from CARA. Louisiana benefits $71 per capita, more than six times the average, and Alaska rakes in $266 per capita annually, or twenty-four times what the average State receives.

These two States may have legitimate claims to the funds. However, I implore the Senate to avoid the creation of a $45 billion, 15 year land acquisition trust fund in order to satisfy those claims. It will provide the power and money for government agents to kick people like me off my land.

Overzealous regulators, joined by environmental pressure groups, both have a front row seat on the CARA grant money gravy train. They will make folly of the "willing seller" clause by harassing owners of properties targeted for acquisition and discouraging other potential buyers. It is not possible to negotiate as a "willing seller" when government is the only buyer.

Every owner of a ranch, woodlot, or game preserve will be at risk of being targeted by government agencies working in tandem with environmental, anti-hunting and animal rights pressure groups. Ironically, since they hold the most desirable properties, private landowners who have been the most diligent caretakers of their holdings will be on top of the land grab list for government takeover.

The umbrella group that is coordinating the campaign in support of CARA is an outfit called Americans for Heritage and Recreation. Proudly displayed on their

website are their Guiding Principles which include this statement regarding property rights protections:

"AHR adamantly opposes any restrictions on the Land and Water Conservation Fund, especially those that limit acquisition to Federal inholdings or adjacent lands, employ arbitrary geographic restrictions on the use of funds, require new authorizations, or prevent condemnation."

The differences between S. 25 and S. 2123 kowtow to AHR's demands. I will quote here a transcript of Senator Murkowski discussing land acquisition on Alaska Public Radio on May 9, just 2 weeks ago.

Murkowski: "This is the Senate Bill 25. It has to be within units established by an act of Congress. It has to be two thirds of the money spent east of the 100th meridian, which is primarily east of the Mississippi, and the purchases of over $5 million require Congressional approval. So we've got some safeguards in here that are responsible."

Caller: "Is the Senator willing to filibuster if those property protections are stripped out?"

Murkowski: "Well, I'll be happy to respond to the caller based on what kind of a debate we get in and whether this bill ultimately moves or not."

Those protections are in fact not included in S. 2123.

Furthermore, in accordance with AHR's wishes, amendments to prohibit use of CARA funds for condemnation of private property were rejected by the bill's sponsors both in committee and on the floor on the House side.

There are some hoops that the government is required to jump through on the Federal side of Title 2, which is Land and Water Conservation Fund. But those minimal protections in S. 2123 apply to only $450 million out of nearly $3 billion per year that is disbursed.

S. 2181, Senator Bingaman's bill, is honest. It is a straightforward wish list from the most extreme elements of the environmental movement.

On the other hand, S. 2123 and its companion legislation H.R. 701 is a fraud. It is a political sell out of land owners in exchange for huge piles of cash for Louisiana and Alaska. In per capita terms, nickels and dimes are handed out to other States to buy them off. It is a tragic and unprecedented attack on private property ownership in the United States.

Attached to my testimony are additional statements opposing CARA from the Gun Owners of America, from a former Executive Vice President of the National Rifle Association, Citizens Against Government Waste, the Sixty-Plus seniors association and others.

Thank you for the opportunity to testify today, Mr. Chairman.

RESPONSES BY MICHAEL HARDIMAN TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. Please elaborate on the Federal Government's role in State and local planning decisions.

Response. The Federal Government, through the approval process of State plans, maintains control of CARA funds, and also gains effective control over State matching money as well.

For example, in S. 2123, Section 102(b)(1) states, "The Secretary shall approve the Statewide plan if the Secretary determines that the plan is consistent with the uses set forth in subsection (c)." And Section 304 (page 49) states, "If the Secretary finds that the comprehensive plan submitted by a State complies with paragraph (1), the Secretary shall approve . . . ."

Question 2. If the Department of Interior disagrees with a State's or locality's planning decision, could DOI withhold funds?

Response. Both DOI and the Department of Agriculture can withhold funds by claiming that a State plan is not "consistent with uses set forth . . . ." A State could disagree, but the desire for an uninterrupted flow of funds will place pressure on non-Federal entities to give in to Federal demands.

Question 3, 4, and 5. I am concerned with the impact on lands used for hunting and fishing . . . How is the applicability of the Pittman-Robertson Act expanded . . . Could the additional funds lead to abuses of the Pittman-Robertson fund?

Response. This is one of the most disturbing parts of the CARA debate. Most of the sportsmen's community has expressed support for S. 2123, because the trust fund grant money available for their government agencies, foundations and non-government entities will nicely pad their budgets.

Abuses of the Pittman-Robertson fund have been well documented over the past year, and even acknowledged by supporters of CARA such as the International Association of Fish and Wildlife Agencies (IAFWA). At their 89th Annual Convention in September 1999, they approved a resolution critical of abuses committed by the United States Fish and Wildlife Service.

Legislation to correct these abuses has been approved by the House and has moved to the Senate. However, CARA's sponsors have refused to attach that legislation, H.R. 3671, to CARA proposals.

Pittman-Robertson is expanded considerably under S. 2123. For example, Section 302 (page 45) includes "public outreach" as a permitted use, which could lead to taxpayer financing of political agendas. Section 302 (page 44) also includes introducing species into "previously occupied range," with no further definition or restriction. Section 301 and 303 refer to financing for the "unmet needs" of "all wildlife," which could lead to all sorts of unintended consequences.

The example in your question of New York State converting private hunting land to non-hunting use immediately upon government purchase has become very controversial. The State bureaucracy insists that it will not be the case, but local residents strongly disagree. See December 17, 1999 news article from the Adirondack Daily Enterprise attached. An amendment for no net loss of hunting lands under Title 3 of CARA was defeated in the House Resources Committee. See also attached a letter from the Gun Owners of America, which is not on the Federal grant money gravy train and so may have a more independent view. They oppose CARA because of the condemnation threat to private outdoor shooting ranges being converted to government owned, non-firearms use.

Question 6 and 7. What is the total scope of potential land acquisition? How much land acquisition power has any restrictions or protections placed on it?

Response. Under S. 2123, the only effective protection for property owners is in half of Title 2, Federal acquisitions under the Land and Water Conservation Fund (LWCF). These funds do not have power of eminent domain. The other alleged protections in Section 205 are window dressing. They amount to nothing because of the use of qualifying phrases such as "consider the use." Other so-called protections will actually harm property owners, such as the creation of a "hit list" of properties targeted for acquisition.

Here is the annual total available for acquisition. There are many other permitted uses for these funds, and it is highly unlikely that all of it would be spent for acquisition in any 1 year. However, the threat that this trust fund represents both in amount of money and scope of purposes available for acquisition, combined with limited protections for property owners and this trust fund's lack of State or Federal legislative oversight, is incredibly dangerous.

Eminent domain prohibited:	
Title 2 (Federal) LWCF	$450 million/year
TOTAL	$450 million/year
No eminent domain restrictions, no protections for property owners:	
Title 2 (State) LWCF	$450 million/year
Title 3 Pittman-Robertson	$350 million/year
Title 4 urban parks (UPAR) ...	$125 million/year
Title 5 historic preservation ..	$100 million/year
Title 7 endangered species ...	$150 million/year
TOTAL	$1.175 billion/year
GRAND TOTAL	$1.625 billion/year

Question 8 and 9. What is the potential for significant increases in discretionary spending above and beyond what would be dedicated to the trust fund? Does creating a CARA trust fund violate the fiscal year 2001 budget resolution?

Response. A CARA trust fund will create a floor, not a ceiling, on land acquisition and grant money. There is undetermined and unlimited potential for additional discretionary spending. CARA was not included in the fiscal year 2001 budget resolution, and is opposed by major fiscal responsibility organizations. These include the National Taxpayers Union, Citizens Against Government Waste, Citizens for a Sound Economy, and Americans for Tax Reform.

THIS IS HOW CARA WILL WORK

Ray Susice, D-St. Regis Falls, chairman of the Franklin County Board of Legislators, is concerned because land use restrictions that apply to State land do not apply to private land. Snowmobilers, hunters, anglers, mountain bikers, and people who ride four-wheelers come to the area to use land leased by hunting clubs. He fears that these activities would not be permitted as freely as they were under private ownership of the land.

"It's also a way of life for the people of the North Country," said Susice. "It's our way of life and they are taking it away from us."

William Manning, president of the Benz Pond Hunting Club, said that another aspect of the hunting club is stewardship. He wonders if the DEC can handle the added responsibility of patrolling another 139,000 acres.

See article attached from the Adirondack Daily Enterprise, December 17, 1999. The land was purchased with New York State bond money, and the effect is the same as what CARA would do. It will allow preservationists and animal rights groups to target privately owned land for acquisition, then lobby for elimination of hunting, fishing and other recreational use. This includes hunt clubs, and private land leased to sportsmen including farms, ranches, woodlots, and any other suitable private land. CARA is a $3 billion per year trust fund, with one to two billion annually for land acquisition, including up to $450 million annually for adverse condemnation. No property owner is safe.

[Adirondack Daily Enterprise, December 17, 1999]

CARA IS ANTI-SPORTSMEN, ANTI-HUNTING

SUIT ATTACKS CHAMPION LAND PURCHASE

(By Jonah Bruno)

CANTON—St. Lawrence County and several hunting clubs recently joined a lawsuit protesting the State's $24.9 million acquisition of 139,000 acres of land in the Adirondack Park.

The land, originally owned by Champion International, a Connecticut-based timber company, was purchased by the State in June. As a condition of the purchase, 110,000 acres will be granted to Heartwood Forestland Fund III, LP, a timber investment group, for harvesting and development. This land will eventually be returned to the State through a conservation easement. The State will keep the remaining 29,000 acres.

Along with the county, three hunting clubs—Benz Pond Hunting Club, Potsdam; the Azure Mountain Club, Ogdensburg; and the Quebec Brook Hunting Club, Lisbon—also joined the suit. The clubs all lease land on the property formerly owned by Champion.

As a condition of the purchase, the clubs will be denied exclusive access to their land from January to September and, within the next 15 years, will have to remove their camps. Their leases will all be reduced to one acre surrounding the camps.

The Franklin County Board of Legislators Thursday passed a resolution endorsing the suit, although it not choose to join at this time.

The suit is based on charges by the Property Rights Foundation of America, Inc. (PRFA) that the State violated its own laws in the purchase of the Championship lands.

"The State failed to abide by the State Environmental Quality Review Act (SEQRA), requiring social and economic impact analysis of major actions," said Carol LaGrasse, president of PRFA.

The plaintiffs hope to have the sale reversed through the suit. LaGrasse hopes that the processes of land acquisition and easement granting by the State would be more public in the future. She feels it is fairly secretive, and she would like to see the processes subject to public hearing.

Jennifer Pose, press officer for the State Department of Environmental Conservation one of the parties named in the suit, said the DEC was hesitant to comment in depth endorsing the suit, although it did not choose because the case is currently in litigation.

"We're still studying the allegations," The suit is based on charges by the said Post. "The Department views this purchase as a magnificent step in our continuing effort to preserve our natural resources for future generations.

William Manning, president of the Benz Pond Hunting Club, would also like to see the sale reversed.

"We are very upset with the way the State and Champion handled this," said Manning. "They didn't go to the townships."

The plaintiffs also contend that the State violated the 1993 Environmental Trust Fund legislation and the 1996 Clean Water Clean Air bond Act. These regulations require local approval for large purchases. The Champion purchase is the largest State land acquisition in the State's history.

Part of the SEQRA process also requires the State to consider the opinions of local municipalities before making any large land purchases. Part of environmental quality is the economy, and SEQRA is intended, in part, to protect the economic stability of municipalities affected by this type of purchase.

The DEC feels that it did adhere to the proper regulations in the acquiring the land for the State.

We are confident that the transaction was handled appropriately,' Post said.

Ray Susice, D-St. Regis Falls, chairman of the Franklin County Board of Legislators, fears the economy of the county will suffer greatly as a result of the Champion land acquisition.

"I believe that we're going to lose a lot of revenue due to the loss of the revenue from the camps in our county," said Susice.

People with camps in the North Country buy supplies from area stores, including gas for cars, snowmobiles, four-wheelers, and generators; food; and hunting and fishing supplies.

Susice is also concerned because land use restrictions that apply to State land do not apply to private land. Snowmobilers, hunters, anglers, mountain bikers. and people who ride four-wheelers come to the area to use land leased by hunting clubs. He fears that these activities would not be permitted as freely as they were under private ownership of the land.

"It's also a way of life for the people of the North Country," said Susice. "It's our way of life and they are taking it away from us."

Manning said that another aspect of the hunting club is stewardship. He wonders if the DEC can handle the added responsibility of patrolling another 139,000 acres.

"We take care of our clubs," said Manning. "Nobody throws junk or anything else."

A hunting club is about much more than hunting, according to Manning. The clubs are about having a cabin in the middle of the woods to use as a retreat or get-away. He said that the land in the Park, like the land his club has leased from Champion, is not ideal hunting ground. The brush is thick and visibility is low. He said that he actually hunts on public land north of Park.

The Benz Pond Hunting Club has about 54 members. According to a release from the PRFA, "the State is mandating that 298 hunting camps be demolished." If all the clubs affected were approximately the same size as Benz Pond, it could impact more than 16,000 people.

However, Post told the Enterprise that she had recently heard several people in the St. Lawrence County area had spoken out in opposition to the suit.

"We continue to believe much of the public in that region was very supportive of that land purchase," Post said.

The nearly $25 million the purchase is costing the State, Susice contends, is a burden for taxpayers.

"The cost of the easement is going to be coming out of taxpayers' pockets," Susice said.

As a condition of the purchase, I 10,000 acres will be acquired by Heanwood Forestland Fund III, LP, a timber investment group, for harvesting and development. This is in violation of Article XIV of the New York State Constitution, known as the "Forever Wild Clause," according to LaGrasse. The forever wild clause prohibits commercial harvesting of timber on State-owned land.

The governor's office was not available for comment at press time.

GUN OWNERS OF AMERICA,
May 10, 2000.

DEAR REPRESENTATIVE: Today, the House will be asked to consider H.R. 701, the Conservation and Reinvestment Act.

On behalf of 200,000 gun owners nationwide, I would ask that you give serious consideration to the possibility that the bill will:

- encourage the governmental condemnation of large amounts of private property—particularly property which is being used for firing ranges and other Politically incorrect" purposes;
- provide extensive government funding for the political Left and its agenda; and

- ultimately reduce the amount of land available for hunting and sporting purposes by creating large new public tracts eligible for wilderness designation.

H.R. 701 expends $45 billion over 15 years on a trust fund which will be applied to pork projects, government land acquisition, and other purposes. This will be money which cannot be used for tax cuts, debt reduction, or other salutary purposes—but which will be used to seize property currently in private hands. (The "just compensation" provision in section 11 will be cold comfort to a lifelong resident who loses his home or business. Neither does the fact that an acquisition must be part of a large congressionally approved list provide landholders with any significant protection.)

Western States which have suffered under government ownership of 80 to 90 percent of their lands can readily appreciate the ramifications of this fact. Easterners who have seen the government seize their lands—and then charge them admission fees for access to the natural wonders in their towns and localities—can hardly be more sanguine about the impact of this bill.

While we understand that H.R. 701 enjoys broad congressional support, we would ask that you step back and give consideration, for one final time, as to whether the recent Clinton administration Land grabs" represent the sort of practice which you wish to be replicated on a large scale. Thank you.

Sincerely,

LARRY PRATT, *Executive Director*.

RESPONSES BY MICHAEL HARDIMAN TO ADDITIONAL QUESTIONS FROM SENATOR CRAPO

Question 1. Proponents of the bill contend that this bill actually improves on property rights protections. As someone who is intimately involved as a private property advocate, what is your position on this?

Response. This legislation is a disaster for private property rights, and in that respect is the worst bill to move in Congress since the American Heritage Trust Act in 1989. Statements suggesting otherwise by the CARA sponsors are fraudulent, a deliberate deception.

Attached is an article from Nampa, Idaho land use consultant Fred Kelly Grant outlining several claims made by CARA's sponsors, and comparing those claims to the actual language of the bill.

Proponents of the bill from the Louisiana and Alaska delegations have made a political decision to cashier their credibility in exchange for a pile of money, literally for 30 pieces of silver.

Attached is a letter from ALRA Executive Director Charles Cushman to members of the House outlining the legislative history of CARA on the House side. It demonstrates that legitimate protections for property owners and multiple use of Federal lands has been rejected by CARA sponsors.

The so-called protections in Section 205 are a fig leaf. For example, the legislation asks Federal agencies to "consider the use of" land exchanges and conservation easements as alternatives to acquisition. With the fire hose of guaranteed annual land acquisition funds under CARA, such legislative suggestions will be swept aside and will provide virtually no protection for land owners.

Question 2. How might the existence of a Department of Interior acquisition list effect property values, or the potential to obtain operating loans?

Response. An Interior or Agriculture Department "hit list" of desired properties makes a joke of the "willing seller" clause in CARA.

Attached is a letter from Ray Arnett, former President of the National Wildlife Federation and former Executive Vice-President of the National Rifle Association, sent to the bicameral Sportsmen's Caucus. It demonstrates that such a list would depress property values by chasing off all buyers except the government, and make it irresponsible for a financial institution to loan funds on a property with an uncertain future.

Question 3. How can the private property provisions of this bill be improved?

Response. First, by prohibiting power of eminent domain using CARA funds by Federal and non-Federal agencies in the entire bill. Currently, eminent domain is prohibited only in the Federal half of Title 2, the Land and Water Conservation Fund (LWCF). Land acquisition is permitted in the State side of Title 2, and in Titles 3 (Pittman-Robertson), 4 (urban parks), 5 (historic preservation), and 7 (endangered species) with no restrictions on use of eminent domain.

In total, over $1 billion per year can be used to threaten adverse condemnation of private property, with an additional $450 million (Federal LWCF) available for land acquisition without condemnation power.

Second, by eliminating the trust fund, and having CARA subject to the annual appropriations process. ALRA supports the regular appropriations process, where everyone has a say. Sometimes we win, sometimes we lose, but at least we have a chance.

ANALYSIS OF THE CONSERVATION AND REINVESTMENT ACT OF 1999 AS PASSED BY THE HOUSE RESOURCES COMMITTEE, H.R. 701/S 2123, AS PRINTED IN STEWARDS OF THE RANGE

(By Fred Kelly Grant)

1. THE BILL DOES NOT PROTECT PRIVATE PROPERTY RIGHTS

Supporters of the bill have claimed far and wide that it protects private property rights from "takings" by the government. They have claimed that purchases would be made only from "willing sellers" and that there would be no authority extended to government to "condemn" private property for purposes under this act.

They have also claimed that mere use of funds appropriated under the bill would not extend the regulatory authority of Federal agencies.

But the claims are simply not true. They are directly contradicted by the specific provisions within the bill.

A. The bill does not protect against condemnation

Section 11 of the bill is entitled "Protection of Private Property Rights". Subsection (a) is entitled "Savings Clause" and it is this clause which many supporters refer to as the clause which protects private property from condemnation. That claim does not withstand even cursory review.

The subsection States that "Nothing in the Act shall authorize that private property be taken for public use, without just compensation as provided by the Fifth and Fourteenth amendments to the United States Constitution." If the subsection ended with the first clause, the supporters could justifiably defend their claim that no condemnations of land were authorized. If the subsection said only that there would be no taking of private property, then there would be no authority for condemnation.

But, the subsection does in fact contain the second clause "without just compensation". The combination of the two clauses precisely defines what a condemnation is in fact. The term "condemnation" is defined as the "process of taking private property for public use through the power of eminent domain. "Just compensation" must be paid to owner for taking of such." Black's Law Dictionary, Sixth Edition.

The language of the subsection provides a textbook illustration of what condemnation is all about. In spite of appearing in a section called "Protection of Private Property Rights," the subsection provides no protection other than that already provided by the Fifth and Fourteenth Amendments. It certainly does not protect against condemnation.

No one can claim, in good faith, that this bill does not authorize condemnation of property in view of the language of Section 11 (a).

B. The bill does not prevent Federal agencies from extending the impact of their regulations beyond land actually acquired

Subsection (b) of Section 11 purporting to protect private property rights provides that "Federal agencies, using funds appropriated under this Act, may not apply any regulation on any lands until the lands or water, or an interest therein, is acquired, unless authorized to do so by another Act of Congress." What an intriguing attempt to assure a scanner of the bill that Federal regulation cannot be extended to private property. But, the last clause of the subsection makes one aware of the deceit.

Most of the Acts of Congress extending management of Federal lands to the Federal agencies contain language which authorizes the agency management to take actions necessary to protect the Federal lands. So, Section 11 (b) does not protect against the exercise of such protective authority. Courts have made it clear that under protective provisions of such acts of Congress, the Federal agencies have the power to control land use of private property which adjoins Federal lands. In Camfield v. United States, 167 U.S. 518, the U.S. Supreme Court confirmed the power of the Federal Government to abate fences on adjoining land. In United States v. Lindsey, 595 F.2d 5 (9th Cir. 1979), the Ninth Circuit Court of Appeals recognized the power of the Federal Government to punish persons who built a campfire on non-Federal land adjacent to a national recreation area. In United

States v. Arbo, 691 F.2d 862 (9th Cir. 1982) the same Court ruled that a person could be charged with interference with a Federal Forest Service officer even when the interfering action took place on non-Federal property which was adjacent to Federal property. In Free Enterprise Canoe Renter Association v. Watt, 549 F. Supp. 252 (E.D. Mo. 1982) the Federal court held that the National Park Service could prohibit the use of State roads for canoe pickups within a Federal Scenic Riverway.

Thus, the last clause of Section 11 (b) makes it clear that this section changes nothing in current law, and extends no protection to private property rights which do not already exist under the Constitution. With or without the clause, the Federal agencies can impact any private property adjoining Federal lands by extension of their regulations. With or without the clause, the Federal agencies can extend their regulatory authority to hunters, campers and fishermen even when they are on private or State property.

Neither does Section 11(b) protect against the expansion of regulations regarding protection of species. We have already seen that the courts have allowed the agencies to extend their regulatory protections of species to private property. Now, under this bill there will be money authorized to States to extend species protection and to enter into cooperative management agreements with the Federal agencies in order to implement the species protection plans which are developed. This provides a means of expanding Federal regulations, established pursuant to the Endangered Species Act, through such cooperative management plans even though the Federal Government has acquired no interest in the land covered by the plans.

So, the "protection of private property rights" set forth in Section 11 offers no protection against condemnation, no protection against expansion of Federal regulations, no protection which does not already exist under the United States Constitution.

C. The claim that land will be acquired only from "willing sellers" is inconsistent with the specific terms of the bill

The main sponsor of the bill in the House has defended the bill by claiming that all land purchases will be only from "willing sellers." He thus chides private property advocates for opposing the bill, saying that such advocates should support the opportunity for "willing sellers" to dispose of their land.

Apparently the claim is based upon Section 205 which contains the "Willing Seller Requirement." The very title would lead one to believe that in fact no acquisition could be made other than from a "willing seller." But, the language of the section belies the title.

The first two clauses of the section would seem to be consistent with the title: "The Federal portion may not be used to acquire any property unless (A) the owner of the property concurs in the acquisition." Accept for a moment that this statement defines a "willing seller." It really does not, but for our initial purpose accept that it does. One would read this as fulfilling the "Willing Seller Requirement." But, the next clause of the Section states:

"or (B) acquisition of that property is specifically approved by an Act of Congress." So much for the "requirement" that there be a "willing seller." The Section is written in the alternative: Federal acquisitions must be from a concurring owner OR under approval by an Act of Congress. So, if Congress approves an acquisition, it matters not whether the owner concurs.

In touting this bill why would anyone contend that all acquisitions had to be made from a "willing seller" when the language of the bill is to the contrary. There is only one logical explanation: the claim is made to try to thwart the impact of the opposition from private property advocates by misleading those who have not studied the actual terms of the bill.

Now that we have seen that the Federal acquisition can be made from an unwilling seller if Congress approves the sale, let us consider what that means. Some might say, "well, if Congress does specifically consider and approve an acquisition it will happen only after the people have received notice and an opportunity to express their opinions on the acquisition to their representatives." Not necessarily. How many projects were approved in the infamously complex appropriations bill for Fiscal 1999 without any specific advance notice? Has anyone in the public ever seen the thousands of pages of that appropriations bill put together? How many projects of various types have been approved by Congress as an amendment to a bill completely unrelated to the project?

So, the provisions of Section 205 allow the agencies to push through acquisitions without the necessity of securing concurrence from the owner of the land. Why then title the Section "Willing Seller Requirement," and why claim that purchases will be made only from willing sellers, unless the purpose is to deceive those who might

worry about private property rights being lost through forced purchases by the government.

One other consideration should be taken into account. The Section is based on the premise that an owner who "concurs" in the acquisition is "willing." In a condemnation case, where "fair market value" must be determined as a standard for "just compensation", the question is not whether the seller "concurs", but whether under all the circumstances it can be found that the seller "wants" to sell. A land appraiser will tell you that market value is based upon the amount which would exchange between a knowledgeable and willing seller, who is under no compulsion to sell (no compulsion of any kind) and a willing buyer under no compulsion to buy. In finding whether a seller is "willing", the trier of fact must determine whether the seller was under compulsion of any kind and whether he wanted to sell, not merely whether he concurred with the sale.

So, the bill does not really define a "willing seller" as that term is traditionally used in the real estate market and in courts which determine condemnation cases. It calls any seller who says "ok" to the acquisition a "willing" seller, even if he says "ok" after being told that all the land adjoining his is going to be acquired in a manner which will severely restrict the use and value of his land. Those who have studied the growth of conservation and scenic easements in this country are familiar with the scenario in which an owner sells in desperation because of the threats of regulatory restrictions which will otherwise be placed on his property.

In short, the bill does not require that all acquisitions by the Federal Government be from a "willing seller."

D. Protections, such as they are, do not specifically extend to State government acquisitions

The "willing seller" restriction, such as it is, is applicable only to Federal acquisitions. This means that an acquisition made by a State or local government which receives funds is not bound by even the color of an attempt to restrict condemnation. The supporters may say that Congress has no such right. Wrong. The bill could restrict the funding of States and local governments to only those instances in which the State or local government agreed that land acquisitions would be made only from a true "willing seller" and that condemnation would not be used.

The same is true for the language that seems to attempt to restrict the Federal regulatory authority. Funding to States and local governments could be limited to those cases in which States and local governments would agree that their regulations would note be extended to any lands until they were actually acquired from a true "willing seller."

Given the provisions that call for joint and cooperative management plans, it would make sense to extend these protections of private property to the State and local government use of funds, IF the bill really were intended to protect private property rights.

E. Water rights are not adequately protected

Section 210 is entitled "Water Rights," but it does not contain the language that would most assuredly protect vested water rights: "nothing in this Act shall effect any existing water right." Throughout history, Congress has used language to that effect when it intended to protect already existing and vested water rights. Not so in this bill.

The language of 210 rather talks in terms of State and Federal relationships regarding water. Nothing in the section pertains to protecting existing private water rights.

Neither is there specific language which States a Congressional intent that there be no implication of reservation of water for any purpose stated in the Act.

II. THE BILL PAVES THE WAY FOR CREATION OF STATE PROTECTION OF SPECIES EVEN BROADER THAN THE FEDERAL ENDANGERED SPECIES ACT

Through the Wildlife Conservation and Restoration Program, the bill provides for State programs of species protection that is far broader than the protection which has lead to destruction of private property rights under the Endangered Species Act (ESA). Section 302 (d) defines the "conservation" use to which funding may be put by the States as including:

"use of means and procedures necessary or desirable to sustain healthy populations of wildlife including all activities associated with scientific resources management such as . . . . acquisition, improvement and management of habitat . . . and periodic or total protection of a species or population."

This language is all-inclusive. It does not pertain merely to endangered or threatened species as now recognized by the ESA. It applies to all:

"wildlife" which would include even non-sport (hunting and fishing) species. The breadth of this provision is awesome. It extends to the States the funding to create species bills that the Federal Government can't reach. That will allow the Federal Government, through cooperative management plans called for by the bill, to extend its regulations of use of land to any species related to any State program funded under this bill.

The same section provides that such State programs must be "approved by the Secretary," so the Federal Government can insist on the broadest possible restrictions on species by the State in order to gain funding. Section 304 provides that in order to gain the Secretary's approval, the State must submit a "comprehensive plan" which provides that the State Fish and Game Department will have overall responsibility for the program. By this provision, the Federal Government can dictate to the State seeking funds as to which department of government must run the program. The comprehensive plan must also provide that this agency will develop and implement wildlife conservation programs, giving "appropriate consideration to all wildlife."

This bill has been touted by its supporters as a boon for hunters and fishermen. Various sporting organizations have supported the bill in reliance upon these claims. But, if they read the bill they will see how the Federal Government can use the funding to gain control over the State species protection programs. Once that happens, is there anyone on the scene today who does not see that restriction of access is next on the agenda. The Federal agencies have launched a massive effort to restrict access during the past 18 months. This bill permits the expansion of that effort to any land acquired by the State for its wildlife programs.

III. THE BILL AUTHORIZES FUNDING TO NON-GOVERNMENT ORGANIZATIONS OF THE TYPE WHICH HAVE FOUGHT PRIVATE PROPERTY RIGHTS AND OPEN ACCESS

Section 704 of the bill authorizes the funding of conservation easement purchases by non-government organizations that qualify as a non-profit, tax exempt organization. This allows the Secretary to fund project purchases by the extremist environmentalist organizations which have fought to overcome private property rights and to deny access to Federal lands through the past two decades.

These same groups have filed lawsuit after lawsuit against the government, costing advocates of private property rights millions of dollars in attorneys fees to defend property rights and to seek and defend open access to Federal lands. Now, the Federal Government will fund their efforts. They can receive funds to use in purchasing conservation easements that will extend the domain which they can control. Then, they will be free to use their own revenue to continue to battle private property rights and open access through their debilitating litigation strategy. With the Federal funding, they can acquire control over even more land, which they can close down to multiple uses including hunting, fishing and motorized recreation uses.

IV. THE EXPENDITURES TO IMPLEMENT THIS BILL DO NOT ADEQUATELY ADDRESS THE MAINTENANCE BACKLOG

Last year the Congress identified $15 billion needed for backlogged maintenance of the federally owned lands. This government cannot even afford to maintain the land already owned. Why does the government need more land—when it cannot maintain and care for that already owned? There is only one logical answer: the more land owned by the Federal Government, or by State governments entangled through cooperative management agreements with the Federal Government, the more power the Federal Government has over local land use decisions and over the operation of local governments themselves. Marx would be pleased.

THE H.R. 701 CARA LAND GRAB: A FRONTAL ASSAULT ON PRIVATE PROPERTY RIGHTS

AMERICAN LAND RIGHTS ASSOCIATION,
Battle Ground, WA, May 11, 2000.

Dear Member of Congress: Congressmen Billy Tauzin and Don Young have continued to perpetrate the fraud that their massive, unprecedented pork barrel land grab in some way actually benefits property owners.

After watching Wednesday's debate, I felt it was necessary to write letter to make it as absolutely clear as possible that CARA is an unmitigated disaster. It the worst legislation of its kind to move in Congress in 12 years, since the American Heritage Trust Act in 1989.

Congressmen Tauzin and Young have served in Congress for a combined total of nearly 50 years. They had been consistent advocates for property owners on land

use issues. By sponsoring CARA, they have made a personal and political decision to cashier their credibility for a fat pile of money for Louisiana and Alaska.

The property rights protections they claim are in the bill are nothing more than a fig leaf, a lame excuse for them to hang their hat on. They consist of making Federal agencies jump through a few extra hoops in order to have access to Federal Land and Water Conservation Fund money, which is half of Title 2. Title 1, the other half of 2, 3, 5, 6 and 7 have no protection. And in Title 4, protections in existing law were stripped out!

There are two basic flaws in their claim. First, these minimal protections impact $450 million out of a $3 billion annual payout. There are no restrictions and no protections, in particular prohibiting adverse condemnation of private land, included in the remaining $2.5 billion of this guaranteed annual gravy train. 83 percent of CARA has no private property protections.

Second, even these minimal protections will certainly be stripped from the bill at the behest of their allies in the preservationist community, who also stand to gain millions each year from CARA. Property rights language that appeared in H.R. 701 as introduced was stripped under orders from George Miller and the "greens" when the bill was marked up in the House Resources Committee.

Tauzin and Young have dollar signs in their eyes, and they are plainly willing to sell out property owners in their home States and across the country. Here are the numbers. The average State benefits less than $11 per person, per year from CARA. Louisiana benefits per capita, and Alaska, $272 per capita annually.

Here are results from the Resources Committee markup in November 1999, some of which are being repeated in debate this week:

- Amendment to require 2/3 of the funds to be spent east of the Mississippi River, in order to protect westerners and direct money to where it is wanted most. This was included in H.R. 701 as introduced. REJECTED by Tauzin and Young.
- Amendment to have no net gain of Federal lands. REJECTED by Tauzin and Young.
- Amendment to prohibit adverse condemnation of private property. REJECTED by Tauzin and Young.
- Amendment to protect private property inholders. REJECTED by Tauzin and Young.
- Amendment to fully fund PILT payments. REJECTED by Tauzin and Young.
- Amendment that requires State approval for Federal LWCF expenditures in that State. REJECTED by Tauzin and Young.
- Amendment to prohibit large LWCF acquisitions in Idaho. REJECTED by Tauzin and Young.
- Amendment to prohibit LWCF purchases in large public lands counties without local approval. REJECTED by Tauzin and Young.
- Amendment to prohibit funds from being used for the American "Heritage Rivers" Initiative. REJECTED by Tauzin and Young.
- Amendment to require a published plan for land acquisitions in Montana. REJECTED by Tauzin and Young.

Actions speak louder than words. This bill has nothing to do with property owner protection, and little to do with protecting the environment, hugging trees, or coddling warm fuzzy creatures. It has everything to do with grant money for left wing environmental groups, land acquisition money for Federal and State agencies, and pork money for Louisiana and Alaska.

If you have any remaining doubt that CARA is a frontal assault on private property rights, I invite you to view the website of the lavishly financed umbrella group that is coordinating the campaign for CARA. It is called Americans for Heritage and Recreation (www.ahrinfo.org). Click onto 'Get Involved,' and you will view" AHR Guiding Principles." Here is what they think about property rights protections:

"AHR adamantly opposes any restrictions on the Land and Water Conservation Fund and its 35-year tradition as the cornerstone of American conservation and recreation, especially those that limit acquisition to Federal inholdings or adjacent lands, employ arbitrary geographic restrictions on the use of funds, require new authorizations, or prevent condemnation. In addition, any legislation must protect the traditional use of stateside funds for recreation enhancement."

Sincerely,

CHUCK CUSHMAN, *Executive Director,*
American Land Rights Association.

CAMPAIGN TO REVITALIZE THE LWCF—GET INVOLVED!

Americans for Our Heritage and Recreation (AHR), has launched an ambitious grassroots campaign in key States across the country to renew the Federal commitment to open space protection by revitalizing the Land and Water Conservation Fund (LWCF). The campaign has identified these simple, guiding principles that will serve as the cornerstone to all education and advocacy efforts:

LAND AND WATER CONSERVATION FUND

AHR Guiding Principles

- Americans for Our Heritage and Recreation (AHR) is committed to full and permanent funding for the Land and Water Conservation Fund (LWCF) and an equitable allocation of funds between its Federal and state-matching grants programs. In addition, AHR supports a revived and substantially funded Urban Park and Recreation Recovery program (UPARR).
- AHR adamantly opposes any restrictions on the Land and Water Conservation Fund and its 35-year tradition as the cornerstone of American conservation and recreation, especially those that limit acquisition to Federal inholdings or adjacent lands, employ arbitrary geographic restrictions on the use of fiends, require new authorizations, or prevent condemnation. In addition, any legislation must protect the traditional use of stateside funds for recreation enhancement.
- AHR recognizes the original purpose of the Land and Water Conservation Fund as a long-term investment of non-renewable resources, specifically offshore oil and gas revenues, to protect America's natural resources and enhance recreation opportunities. However, AHR will support only legislation that contains no incentive for additional offshore oil or gas leasing, exploration, or development that should continue to be governed solely.

G. RAY ARNETT,
Stockton, CA, December 18, 1999.

TO: THE CONGRESSIONAL SPORTSMEN'S CAUCUS

DEAR CAUCUS MEMBERS: I am writing today on three subjects of great importance—1) the protection of private property rights, 2) the conservation of our nation's natural resources, and 3) the preservation of sport hunting, sport fishing and sport trapping. My good and longtime friends with the Alaska congressional delegation have been strong proponents of these issues for decades. Unfortunately, today I must state my opposition to Representative Don Young's proposed legislation, The Conservation and Reinvestment Act of 1999 (CARA), H.R. 701 and its Senate counterpart, S. 25.

My credentials in the area of sportsmen's activities and natural resource conservation stretch back more than a had century. They include 18 years on the board of directors, National Wildlife Federation, and 3 years as NWF president; and serving on the National Rifle Association of America board of directors before being elected to NRA Executive Vice President in 1985. I was Director, California Department of Fish and Game under Governor Reagan (196?1975) before coming to Washington in 1980 to serve President Reagan again, this time as Interior Department Assistant Secretary for Fish and Wildlife and Parks (1981–1985).

Despite the best intentions of its authors, CARA fails on all counts. It spells disaster for property owners. Overzealous regulators, joined by environmental pressure groups and other extremists, will make folly of the "willing seller' clause by harassing owners of properties targeted for acquisition and distracting potential buyers. Very few families and small businesses in particular, have the financial and emotional ability to stay over an extended period, government agencies and foundation-funded, richly financed pressure groups. It is not possible to negotiate as a "willing seller' when government is the only buyer.

With enormous riches of funds provided by CARA, agencies will have an unprecedented incentive to engage in the "willing seller' charade. Every owner of a ranch, farm, woodlot, or game preserve will be at risk of being targeted by government agencies working in tandem with environmental, anti hunting, animal rights, pressure groups. Ironically, since they hold the most desirable properties, private landowners who have been the most diligent caretakers of their holdings will be on top of the land grab list for government takeover.

CARA is destined to be a disaster for one of its intended beneficiaries, the sporting community of hunters and fishermen who are the true and most able conservationists in America. The unprecedented flood of money provided by CARA will enable buying and fuming over to the government, private lands historically and cur-

rently used for hunting and fishing. This will subject the property's sporting use to the whim of public opinion, and a bureaucracy increasingly hostile to sport hunting, fishing, trapping, and gun ownership.

A harsh example of my concern is what transpired in New York earlier this year with the largest land purchase in that State's history. For over one hundred years, Champion International Timber Company and previous private owners had leased 139,000 acres of its holdings for recreation, including sport hunting and fishing. When the State of New York purchased the land. The State's first Management action was to eliminate hunting access and drastically limit other recreation uses. Included with these mandates was ordering the destruction of 298 hunting cottages used each year by almost 3,000 sportsmen.

Animal rights extremists have already taken aim at the Pittman-Robertson fund in an effort to deny access for hunting and fishing. The Animal Protection Institute is an umbrella coalition of 38 of the largest of these anti sportsmen groups. One of the goals within APl's effort to abolish hunting is to "change the constituency of power within our wildlife management agencies and the funding sources that maintain these government agencies."

CARA fits perfectly into the plans of API, since it wilt provide a revenue source outside of the sportsmen-paid excise taxes to fund Pittman-Robertson. There is no question that animal rights activists will target for acquisition, fish and game clubs, leases, and other private land where the taking of renewable wildlife resources is permitted. Once the land is purchased and under government control, these welt-funded, anti sportsmen groups will lobby Congress and government agencies for the elimination of any consumptive use of wildlife resources.

I commend the House Resources Committee for its series of hearings exposing abuses in the Pittman-Robertson fund, and its publicizing whistle blowers who have spoken out against U. S. Fish and Wildlife Service actions. Unfortunately, the arrogance of FWS and its refusal to acknowledge mistakes serves as further reason not to hand over to that troubled agency billions of dollars that would be available should CARA be passed into law.

I urge Sportsmen's Caucus Members to prevent the passage of CARA. No trust fund, period. CARA (H.R. 701 and S. 25) is bad proposed legislation with serious flaws that can not be made acceptable with minor amendments here and there. At best, this rearranging of the Titanic's deckchairs, so to speak, may result in outwardly making a rotten apple appear to be palatable, but the apple is still rotten.

Thank you for your attention to my concerns.

Sincerely,

G. RAY ARNETT.

TESTIMONY OF CHARLES R. NIEBLING, SENIOR DIRECTOR, POLICY AND LAND MANAGEMENT, SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS

Thank you Mr. Chairman, and honorable members of the committee on Environment and Public Works. I am Charles Niebling, Senior Director for Policy and Land Management with the Society for the Protection of New Hampshire Forests. Founded in 1901, the Forest Society is a non-profit membership organization dedicated to the wise use of New Hampshire's natural resources, and their complete protection in places of special environmental or scenic quality. In addition to our role as a land trust and conservation advocate, we are unique among state-based conservation organizations in that we also own and sustainably manage 33,000 acres of productive woodlands in 123 reservations across the State. We not only preach good forestry and conservation, but we practice it as well. We have 9,600 members.

Since our founding, the Forest Society has played a role in permanent conservation of over 1 million acres in New Hampshire. We led efforts to create the White Mountain National Forest in the early part of the 20th century. We have worked closely with the State and with communities to establish State and local parks and forests. In the late 1980's, we spearheaded creation of the Trust for NH Lands and the Land Conservation Investment Program, which protected over 100,000 acres of working farms, forests and recreation lands.

And just last week, the New Hampshire General Court passed and funded the New Hampshire Land and Community Heritage Investment Program. The Forest Society led a coalition, known as Citizens for New Hampshire Land and Community Heritage, involving 120 farm and forest industry, business, civic, tourism, recreation, wildlife, historic preservation and land conservation organizations over a 2-year period to secure passage of this landmark legislation.

This coalition has also actively lobbied for the Conservation and Reinvestment Act since 1999. The same sense of common interest and concern for the New Hamp-

shire's future that brought these diverse organizations together around State legislation has brought us together around the Federal legislation as well.

In the next few weeks and months Congress will decide whether to make good on its 35 year old promise to dedicate a portion of the revenues for Outer Continental Shelf oil and gas leases to conserve some of our nation's most prized possessions: its lands, its water, its wildlife, its legacy. Proposals now before the Senate offer the opportunity to put words into action, and join the House and all 50 Governors in supporting a dedicated source of funding for conservation.

For the record, we support passage of the Conservation and Reinvestment Act, S. 2123. There are elements of the Conservation and Stewardship Act, S. 2181, introduced by Senator Bingaman, that we support and would like to see incorporated into S. 2123. There are elements of the recently passed H.R. 701, the House version of CARA, that merit serious consideration by this committee.

While there are many important provisions within S. 2123, the most important accomplishment is the restoration of full and permanent funding for the Land and Water Conservation Fund. Revitalizing this fund will have a direct impact on conservation efforts not only in New Hampshire, but in every region of the country. We are particularly supportive of the significant dedicated funding allocated to the "state-side" program of LWCF. With the recent passage of our State conservation bill, which also has a matching funding requirement, New Hampshire communities are ready, willing and able to take advantage of state-side LWCF funding.

This legislation would be significantly improved, however, by modifications embodied in S. 2181. In particular, Senator Bingaman's bill would:

1. Create an additional, more flexible fund which is capable of addressing important state-led projects of local, regional or national significance which exceed the capacity of traditionally administered state-side grants. And while the Northeast is particularly poised to take advantage of such a provision, its benefits will be realized nationwide.
2. Encourage the private/public partnership embodied in the Forest Legacy Program and Farmland Protection Program. This provides a critically important tool by allocating funds to purchase conservation easements from willing sellers, thereby keeping our most productive forest and farm lands in private ownership.
3. Provide for the full Payment in Lieu of Tax Obligation owed by Federal Government to local communities and county governments with acreage in national forests, national parks, wildlife refuges, bureau of land management lands, and other Federal ownerships.

These three provisions will measurably improve S. 2123, increase support for the bill, and should be incorporated in any legislation that makes its way to the President's desk. The Senate Environment and Public Works Committee can play a pivotal role in helping to forge a broadly supported and strong conservation measure from these three proposals. The conservation community in New England is committed to working hard with you toward this end. I want to address each of these three provisions in greater detail.

I. Flexible Funding

There is a critical component of conservation legislation that is essential to regions of the country, including the Northern Forest of Maine, New Hampshire, Vermont and New York, with important lands of compelling public interest but without access to adequate Federal or State LWCF funding. Title II of S. 2123 reauthorizes the Land and Water Conservation Fund and provides land acquisition funding for Federal land units, such as national forests, national parks or wildlife refuges. It also directs grants to States on a 50/50 matching basis for acquisition and development of State and local parks, forests and outdoor recreation lands. Both are highly successful programs serving critical needs, and both deserve full and permanent funding.

LWCF currently does not provide funding for larger State or local projects of regional and national significance that exceed the capacity of traditionally administered state-side grants. In addition, States with few Federal land units or with low populations (e.g. New Hampshire) do not have access to significant Federal funding.

To provide funding for the full array of project needs, the final package voted on by Congress should fully and permanently fund LWCF at its authorized level of $900 million and equally distribute the money between traditional Federal and State programs. In addition, it should include a provision that would add new funding for important projects that exceed the capacity of the population-based, state-side formula or that are outside of Federal land units. Without a source of flexible Federal funds, States and local communities alone will be unable to protect some of America's most important undeveloped forest and farm lands, including those found in the Northern Forest of Maine, New Hampshire, Vermont, and New York.

Many States most notably New Hampshire—are looking for ways to protect important working forests, and natural, cultural, and recreational areas without creating or expanding Federal units. Supporting alternatives to new Federal ownership promotes local control and partnerships that respect local values and priorities. Protecting national interest lands without new Federal ownership is also cost-effective since State, local, and private partners will assume the responsibilities of long term management.

II. Forest Legacy and Farmland Protection Programs

New Hampshire has a long history of using conservation easements to permanently protect land from development, while retaining private ownership and control. Our State has utilized Forest Legacy funds to protect thousands of acres of productive, managed woodlands. These are lands that stay on the tax roles, and require no on-going Federal obligations because the State of New Hampshire holds and monitors these conservation easements.

For example, there is much current interest in New Hampshire in acquiring a conservation easement on 171,000 acres of productive timberlands owned by Champion International Corporation in the northern part of the State. Champion is a willing party to these discussions. A Forest Legacy easement, held by the State or a qualified non-profit organization, will keep these lands in private ownership, keep them contributing to the tax base and local economy, and will protect both economically important uses and ecologically important features of the land.

Under Title VII, S. 2123 authorizes a conservation easement program. Yet it is unclear how this program relates to existing Federal programs, such as Forest Legacy or the Farmland Protection Program, that authorize Federal funds for purchase of conservation easements. Title VIII of S. 2181 addresses this by authorizing funding for Forest Legacy, the Farmland Protection Program, and a new program to be called the Ranchland Protection Fund. H.R. 701, as passed by the House on May 11, includes language that we support allowing qualified non-profit organizations to hold easements under these programs. We hope the committee will work to reconcile these slightly varying approaches.

III. Full Payment in Lieu of Tax

If the Federal Government is going to continue to acquire lands for addition to national forests, national parks, wildlife refuges and other Federal ownerships, it must fully fund its authorized payment in lieu of tax obligations. Maintaining strong relationships with local governments is as important an aspect of Federal land stewardship as is the responsible management of the land.

Currently, the US Forest Service pays about 46 percent of the authorized PILT payment on lands of the White Mountain National Forest. This is a significant local issue in New Hampshire, and is the source of much tension between our rural northern communities and the US Forest Service.

Title II of S. 2123 funds Federal land acquisition at $450 million per year. With few exceptions, these acquisitions will involve privately owned lands that are now contributing property taxes to local communities or county governments. We urge the committee to consider adding language from Title X of S. 2181 to fund payments in lieu of tax at the maximum level authorized under Federal statute. To fund continued Federal land acquisition without making a commitment to fully fund PILT is simply irresponsible.

Mr. Chairman, we strongly urge you to use this hearing and other means to communicate with the bi-partisan leadership of the Senate and the Energy and Natural Resources Committee to insist that differences be bridged, and sound conservation legislation be enacted this year. Voters from States across the country have indicated at the ballot box that they cannot afford to lose more opportunities to protect the lands they consider important to their quality of life. The overwhelming support of the NH General Court for the recently passed NH Land and Community Heritage Investment Program is evidence of this (the bill passed our House of Representatives 326–9, and our Senate 24–0). We can assure you that your efforts in this regard will be noticed, appreciated and rewarded.

If we are successful in passing a permanent conservation funding bill, it would be a conservation milestone comparable to the passage of landmark laws like the Clean Air and Clean Water Acts, and the original Land and Water Conservation Fund. There are considerable hurdles, budgetary and otherwise, yet to be overcome. Like you, however, we recognize that the recent passage of H.R. 701 in the House provides us with a rare window of opportunity to pass significant legislation.

Thank you very much for the opportunity to appear before the committee on this important legislation. I would be pleased to answer any questions.

RESPONSES OF CHARLES NIEBLING TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. Please elaborate on the Federal Government's role in State and local planning decisions under S. 25, S. 2123, and S. 2181.

Response. The Federal Government may assume certain new authorities with respect to State and local planning to the extent that States may only receive funding (for example, under Title I, section 101, 102 of S. 2123—approval of Coastal State Conservation and Impact Assistance Plan) if certain plans are approved by the Secretary of the Dept. of Interior. Approval of such plans is intended to ensure consistency with provisions of the act, and ensure fiscal accountability to Congress.

Question 2. If the Department of Interior disagrees with a State's or locality's planning decision, could DOI withhold funds.

Response. Only if such planning decisions are fundamentally inconsistent with the purposes of these acts.

Question 3. I am concerned with the impact of S. 25, S. 2123, and S. 2181 on lands used for hunting and fishing. The flood of money provided by CARA will enable buying and turning over to the government, private lands currently used for hunting and fishing. This will subject the property's sporting use to the whim of public opinion, and a bureaucracy increasingly hostile to sport, fishing, trapping, and gun ownership.

An example of my concern is what happened in New York last year with the largest land purchase in that State's history. For over one hundred years, Champion International Timber Company and previous private landowners has leased out 139,000 acres of its holdings for recreation, including fishing and hunting. When the State of New York purchased the land, the State's first "management" action was to eliminate hunting access and drastically limit other recreation uses. Included with these mandates was ordering the destruction of 298 hunting cottages used by 3,000 sportsmen each year.

Under S. 25, S. 2123, and S. 2181, how likely are scenarios like this?

Response. Federal aid guidelines will require some level of public access, and State wildlife agencies to which Title III funds are allocated are charged with providing for continued public access, especially for fishing and hunting.

In general, US Fish and Wildlife Refuges to which Title II (L WCF) funds may be allocated all allow public access, including hunting and fishing with certain limited restrictions at some refuges.

The New York example is not a good example because these lands were specifically acquired for addition to the Adirondack Park, which, since 1891, has been constitutionally mandated to be managed in a "forever wild" status that expressly prohibits hunting and lease camps.

Question 4. Under S. 25, S. 2123, and S. 2181, how is the applicability of the Pittman-Robertson Act expanded?

Response. I am not an expert on the Pittman-Robertson Act and am not qualified to answer this question.

Question 5. Could the additional funds lead to abuses of the Pittman-Robertson Fund?

Response. I am not an expert on the Pittman-Robertson Act and am not qualified to answer this question.

Question 6. Under S. 25, S. 2123, and S. 2181, what is the total scope of potential land acquisition?

Response. Under Title I of these acts (Coastal Assistance), land acquisition may be authorized (e.g., S. 2123, Sec. 102 (c)(2)). Under Title II (LWCF), land acquisition is explicitly authorized through the Federal or stateside programs. Under Title III of these acts (Wildlife Conservation and Restoration), land acquisition is authorized (e.g. S. 2123, sec. 302 (d)). Under the conservation easement titles of these bills, acquisition of less-than-fee interest in private lands—where title to the lands is retained in private ownership—is authorized.

Question 7. Under S. 25, S. 2123, and S. 2181, how much land acquisition power has any restrictions or protections placed upon it?

Response. I do not entirely understand the question, but I'll do my best.

In title I of these bills (Coastal Assistance), and land acquisition must be consistent with an approved Coastal State Conservation and Impact Assistance Plan, developed by each State, and approved by the Secretary of the Dept. of Interior for consistency with the act. These plans will require extensive public and community input. fit is the consensus of the citizens of the State that land acquisition should be limited, or prohibited, under this Title, then the plan will reflect that.

Under Title II, Congress will decide as part of the appropriations process which Federal projects are funded using the LWCF funds that are allocated to the Federal program. Under the stateside LWCF program, any acquisition must be consistent with the objectives set forth in the State Action Agenda. This agenda will be developed with extensive public involvement. The same is true for Title III.

In general believe strongly that there are sufficient checks and balances incorporated into these bills to ensure the land acquisition authorities set forth will not be abused by the Federal, State or local governments.

Question 8. Under S. 25, S. 2123, and S. 2181, what is the potential for significant increases in discretionary spending above and beyond what would be dedicated to the trust fund?

Response. The Federal Government will assume increased costs, and thus increased discretionary spending if funds are appropriated to cover such costs, if under Title II of these bills it adds additional lands to our existing system of national parks, national forests, wildlife refuges, etc. There will be no additional Federal costs associated with administration of the stateside LWCF program (State and local governments will assume these costs). There will be no additional costs associated with Title III of these bills, because the Wildlife Conservation and Restoration program is handled as a pass through to States. There will be no increased costs associated with the conservation easement titles of these bills, because State or local governments, or qualified non-profit organizations will assume monitoring and enforcement responsibilities for conservation easements.

It should be noted that there may be increased Federal costs associated with NOT passing CARE legislation, because of increased coastal damage; habitat loss; increased costs associated with more expensive endangered species recovery; flooding from accelerated wetlands loss; loss of economic contributions from working forest and farmland that is otherwise developed, etc., etc.

Question 9. Does creating a CARA trust fund violate the fiscal year 2001 budget resolution?

Response. I do not know.

TESTIMONY BY DR. ROLLIN D. SPARROWE, PRESIDENT WILDLIFE MANAGEMENT INSTITUTE

Mr. Chairman:

The Wildlife Management Institute, founded in 1911, is a nonprofit organization staffed by experienced resource management professionals dedicated to improving the management of wildlife and wildlife habitat. Our focus is wildlife policy both at the Federal and State level, with a special emphasis on the administration and function of agencies. As an example, each decade for the past four the Institute has conducted a review of the organization, authorities, and programs of the 50 State fish and wildlife agencies. We have also reviewed fish and wildlife functions of the U.S. Forest Service on two occasions, and parts of numerous other agencies at other times at their request. We have been intimately involved in virtually all Federal legislation concerning those agencies and their fish and wildlife and habitat programs.

Our Institute is pleased to lend its strong support for a consolidated approach to legislation reflected in the three pending Senate bills (S. 25, S. 2123, S. 2181) to fund conservation programs through use of revenues received from outer continental shelf oil and gas production. We have been strong supporters of H.R. 701 recently passed by the House, and believe that the sportsmen and women of America would clearly be well served by passage of comparable legislation by the Senate.

This year more than $450 million for wildlife and fisheries conservation will go to State agencies on a (75:25) matching basis. Under the Pittman/Robertson, Dingle/Johnson-Wallop/Breaux programs, excise tax revenues from arms and ammunition, archery equipment, and fishing equipment provide stable funding that is the foundation of wildlife and fishery management in all 50 States. This constitutes a conservation legacy involving hunters and anglers that has persisted for more than 60 years. We in the wildlife management and hunting community are justly proud of the status of waterfowl, elk, wild turkey, whitetailed deer, and many other species that have recovered under Pittman/Robertson over those decades.

Other remedies have failed to address the needs in most States. In 1975, the Wildlife Management Institute worked with the Council on Environmental Quality and conducted a national assessment of needs for non-game fish and wildlife programs in the United States. Based on that information, an alliance of about 200 groups successfully supported passage of the Fish and Wildlife Conservation Act of 1980. This act outlined great intent to fund non-game programs, and was amended by this committee in 1988 to try to strengthen it. Congress has never funded the

Act. Those legitimate needs for funding to manage fish and wildlife that are neither hunted nor fished continue today, and in fact have accelerated greatly over the past 25 years.

The need is clear for our States to effectively manage the more than 1,800 wildlife and fish and their habitats that currently receive little attention, and that increasingly are been driven to scarcity and even listing under the Endangered Species Act because of human pressures on the land.

Our State fish and wildlife agencies are under tremendous pressure from declining funding, and increasing responsibilities. These agencies are forced to spend scarce sportsmen's dollars to conduct the extensive environmental review involved in State responses to Federal actions regarding public lands, and endangered species work. This has become a significant burden on limited funding for wildlife conservation.

Most States receive 60–70 percent of their funding directly from excise tax funded programs and license revenues, and programs are vulnerable because of their limited sources. As an example, a 1993 die-off of several big game species has led the State of Wyoming to make 30 percent reductions in staff and programs because of reduced license sales. This not only reduced services to hunters beyond the recovery of the herds, but affected the overall function of the agency in delivering its broader programs. It is neither to the benefit of sportsmen nor advantageous to the vast array of other fish and wildlife species that need management, for such major fluctuations in programs to occur. Currently there are no buffers to excise tax or license sale decreases. Other fund raising devices like fees onsite, speciality license plates, or tax checkoffs have had very limited success. Only a small handful of States have been able to independently take significant steps to provide alternative funding for broad fish and wildlife programs.

We have worked with a large array of wildlife and fishery organizations to support new funding to broaden wildlife management programs through the existing State agencies to cover all wildlife, and meet the needs of all of the public. It is clear that both hunters and non-hunters would benefit from these programs. In fact, we think all those interested in the future of wildlife in America have a stake in not only new funding, but the continued flow of dollars to conservation from hunting and fishing excise taxes and license fees. We are not replacing programs with new funding proposals, but rather building on the success of the past, with our eyes on a better future.

Looking practically at the role of State fish and wildlife agencies and management needs, such new funding would:

Maintain the leadership role of the sporting community in fish and wildlife conservation that has made so much progress.

Reduce the financial pressure on license fee and current excise tax revenues derived from hunters and anglers.

Spread the cost of habitat and wildlife and fishery conservation to the broader American public.

Add more habitat accessible to traditional uses like hunting and fishing as a dividend from broader conservation actions.

Strengthen existing fish and wildlife agencies that have the legal authorities for necessary management of all wildlife.

Widely expand the public involvement in guiding and supporting those broader fish and wildlife agencies.

Build on the existing, proven administrative system of Pittman/Robertson, Dingell/Johnson-Wallop/Breaux programs.

Allow the State fish and wildlife agencies to satisfy their broader responsibilities to all wildlife.

Traditional fish and wildlife management organizations in America believe very strongly that active management programs through our agencies are essential to complement any investment in conserving the land base. Certainly, we all recognize that habitat conservation is essential for the future of wildlife. As important as acquisition is, provision of stable funding for active management programs is an equally important investment to assure that those lands return the values for fish and wildlife and people that the Congress intends.

The need by the 50 States is clearly more than the $350 million per year included in H.R. 701. While that will be a major step in the right direction, down the road additional funding will be necessary to satisfy what is currently a need more than three times that large. The States have documented the size of that need and it will continue to grow.

Mr. Chairman, I do not presume to speak for the millions of hunters and anglers in America or for their organizations. I do know that they strongly support the legis-

lation that passed the House, and their outspoken support played a role in that success. I know you will hear directly from many of them.

The common message on the need for legislation you will hear is:

The need is clear and well documented.

We have a model with a good record in Pittman/Robertson and Dingell/Johnson.

The authority and responsibilities for broader fish and wildlife management lie with the 50 States.

Traditional wildlife management, and sportsmen and women themselves will benefit from proactive conservation for all wildlife.

We request that you act now to meet a real need and take advantage of an opportunity of strong bipartisan support for this landmark legislative initiative.

Much of the publicity about the passage of H.R. 701 has incorrectly cast it as a "land acquisition bill". In fact, the majority of the money that would go to the State fish and wildlife agencies will support long-term management programs, with professionally trained staff, to ensure that those lands and other lands in each State adequately provide for the fish and wildlife resources that we value. We believe that concerns of private property owners have been fairly addressed in the legislation that has passed the House. The Congress will have solid oversight over all Federal land acquisition.

All of this should be viewed as a reinvestment in critical resources for the future, providing environmental and conservation values far beyond the dollar cost of this annual funding. It will leverage additional funds for conservation. It provides a base for proactive action to keep the States in control of wildlife management, within their authority. This can avoid further erosion of State management authority over wildlife, and reduce the need for Federal control, by avoiding species declines to the point of listing. While this is not an endangered species bill, it is an investment in forestalling the rate of loss and decline of our valued wildlife and fishery resources. Moreover, it continues the very successful flow of funding to the States to be used at the local level to solve real problems.

The original vision of Teaming With Wildlife that brought a large coalition of interests together was to broaden wildlife and fisheries programs to address species that are neither hunted or fished. After a decade of work to reach the current opportunity, clearly the need for such work remains highest priority for the States. We are ready to work with the Senate on these and other details of legislation.

Mr. Chairman, the wildlife management and hunting community has an equal stake in appropriate expenditures under the Land and Water Conservation Fund for the conservation of habitats. It was the Izaak Walton League of America that lead other old-line traditional conservation groups that supported the original Land and Water Conservation Fund, before many current organizations even existed. Careful addition to the Federal land base is still an important wildlife conservation and public access need in America. We believe that the additional protections for property rights written into H.R. 701 provide a model the Senate can use to cover such concerns. We urge you to deal positively with both State and Federal programs to finally deliver the true promise of the Land and Water Conservation Fund as an investment in the quality of life for future Americans.

We appreciate the opportunity to comment on this extraordinary legislative opportunity.

RESPONSES BY ROLLIN D. SPARROWE TO ADDITIONAL QUESTIONS FROM SENATOR CRAPO

Question 1. The maintenance backlog on our public lands is immense, however, these bills propose to increase Federal ownership of lands. Does it make sense to require a cost analysis of future operations and maintenance costs associated with land to be acquired? If not, why?

Response. It would make good business sense for every Federal agency to analyze the cost of future operations and maintenance of any land acquisition. This would provide an objective assessment of needs for the future to make the land produce what it was intended to produce for the American people. This would allow agencies and the Congress to budget for needed operations and maintenance on an orderly basis. Such an analysis may or may not have an influence on a subsequent decision to acquire land, since various threats like development or special needs for unique properties may make them a high priority for acquisition apart from assessing their future cost.

Question 2. The House passed version of CARA, H.R. 701, includes an amendment that would preclude the transfer of money to the CARA fund if the CBO does not certify that Congress is on-track to eliminate the national debt by 2013, or meet So-

cial Security or Medicare obligations. Do you support a similar amendment to the Senate bills and why? If not, why?

Response. As supporters of H.R. 701 and companion legislation now pending before the Senate, we expect that the Congress will meet any of its other budgetary requirements before it initiates new programs. Our knowledge of whether CBO can truly estimate the detail of future overall government finances is limited. We and other supporters would prefer as few amendments as possible to Senate legislation for the CARA fund, especially if the ability to carry out those stringent fiscal requirements is not clear.

Question 3. Do you believe that the Federal Government is a better steward of land than private ownership? Why?

Response. We firmly believe that significant land should be managed by the Federal Government for the broad values they provide to the American people. Public ownership of wild landscapes has provided millions of people with scenic, recreational, and spiritual values which will endure for our children and our grandchildren. We believe in private land stewardship of private land, and equally effective stewardship of the public lands.

We don't think it is appropriate to pit one against the other in an "either or" fashion in most cases. We believe that professional management of Federal land provides stewardship when it is allowed to proceed without interference.

Question 4. S. 2181 provides full funding for PILT. S. 2123 provides a match for PILT and Refuge Revenue Sharing. S. 25 is silent on both points. Given the impact of increased Federal land ownership on local communities, do you support providing full funding for PILT and Refuge Sharing as part of CARA? If not, why?

Response. Full funding for PILT and Refuge Revenue Sharing would be an asset both to communities in areas with Federal landownership, and to Federal agencies. This has been a longtime problem in appropriations, and should be resolved. We would endorse consideration of the full funding provisions as presented in S. 2181.

Question 5. Do any of the CARA bills adequately address the operations shortfalls or maintenance backlog on Federal lands? If not, should the CARA bills address this problem? If not, why?

Response. All of the versions of CARA legislation have been designed to deal with increased needs by the American people for lands, management of their wildlife, and restoration of areas impacted by development. Only Title 2, and half of its revenues at that, address Federal lands at all. Under the original H.R. 701 (now S. 2123), Title 1 funding goes directly to the States, Title 2 is appropriately half state-related and half Federal-related for land acquisition, and Title 3 is in fact operations money for State wildlife programs. Realistically, if the maintenance backlog that has build-up over many years for only Federal lands were included then the other objectives of CARA could not be carried out.

As an organization, we have led a group of 18 organizations that have worked for almost 6 years to deal effectively with the operation and maintenance shortfalls of the national wildlife refuges. With the help of Congress we have made progress both in documentation and accountability for the use of such funds, and the Congress has found several ways to enhance funding to solve the problem.

Question 6. In your submitted testimony, you mention the success of the Federal Aid in Wildlife and Sport Fish programs. You suggest that new funding would "build on the existing, proven administrative system of Pittman-Robertson and Dingell-Johnson/Wallop Breaux programs." Are you aware that legislation has been introduced, and passed in the House, that would reform the administration of the Federal Aid dollars? Legislation that was prompted by a congressional and GAO investigation of the misuse of the administrative funds by the Fish and Wildlife Service. In your opinion, why is this not indicative of what the government may do with permanent, entitlement funding?

Response. Our Institute was directly involved in passing the original Pittman-Robertson legislation in 1937, and has been closely involved in all aspects of the Federal aid program since that time. Our staff worked directly with Chairman Young's committee in the House in the development of reformed legislation. Our position has been consistent, that the Fish and Wildlife Service misused some administrative funds but also lacked clear guidance from the Congress about how those administrative funds should be used. Proposed legislation in both the House and Senate would fix that key problem by clarifying what is appropriate administrative use. We still feel that some details of that legislation need work to avoid problems in the future, and we continue to work on the committees on that topic.

Most of the activities reported upon span several administrations, and are not indicative of what has happened with the entire program. By far, most of the money has been effectively delivered to the States. Further, the key problems first surfaced

both by GAO and the House Resources Committee have been rectified by the Fish and Wildlife Service. Some of the most acrimonious debates focus on personnel actions and other details which none of us are privy to under the law. We are confident that those will be dealt with by duly appointed investigative officers . . . Once again, we believe it has been well demonstrated that over 95 percent of the funding has been delivered as designed, and this is not indicative of a larger problem likely with new money.

RESPONSES BY ROLLIN D. SPARROWE TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1. Please elaborate on the Federal Government's role in State and local planning decisions under S. 25, S. 2123, and S. 2181.

Response. The three bills pending in the Senate differ in their approach to the Federal Government's role in State and local planning decisions. Some of those decision tracks, such as under Title 1 of S. 2123, are controlled by the 34 States that would receive coastal restoration funding. Title 3 would be managed through the existing mechanisms of the Pittman/Robertson and Dingell-Johnson programs of the U.S. Fish and Wildlife Service. In essence, they would be annual grants to the States through an established process. Considerable discussion has centered around the role of the Federal Government in Federal land acquisition to protect the property rights of individuals. S. 2123 incorporates the increased oversight by the Federal Government that helps bring about the tremendous support for this legislation in the House. Some feel that this may be even too restrictive and impede an orderly process. We would support starting with the provisions under S. 2123 and incorporating the best parts of the other legislation on this issue.

The role of this legislation and land acquisition is often overstated. It is not clear at all how much acquisition there would be under Title 1, which is half the funding, and in Title 2, half the funding would go to the States and the other half to the Federal Government. The money to the Federal Government would be roughly twice what has gone in recent years, under very close scrutiny by the Congress. Finally, Title 3 primarily is funding for operation and maintenance of expanded State fish and wildlife programs. While there might be some acquisition, it would occur under existing processes that have worked very well in the past.

Question 2. If the Department of Interior disagrees with a State's or locality's planning decision, could DOI withhold funds?

Response. It is our understanding that under the Land and Water Conservation Fund, the Congress will have the final word on acquisition. Under Title 3, there is an existing process through which the Fish and Wildlife Service reviews principal aspects of the land acquisition proposed by a State wildlife agency and approves or disapproves it. Generally, these work well and have not been a problem.

Question 3. I am concerned with the impact of S. 25, S. 2123, and S. 2181 on lands used for hunting and fishing. The flood of money provided by A wait enable buying and turning over to the government, private lands currently used for hunting and fishing. This will subject the property's sporting use to the whim of public opinion, and a bureaucracy increasingly hostile to sport fishing, trapping, and gun ownership.

An example of my concern is what happened in New York last year with the largest land purchase in that State's history. For over one hundred years, Champion International Timber Company and previous private owners has leased out 139,000 acres of its holdings for recreation, including fishing and hunting. When the State of New York purchased the land, the State's first "management" action was to eliminate hunting access and drastically limit other recreation uses. Included with these mandates was ordering the destruction of 298 hunting cottages used by 3,000 sportsmen each year.

Under S. 25, S. 2123, and S. 2181, how likely are scenarios like this?

Response. America is putting increasing pressure on its lands and having to make many decisions about what are appropriate uses. Seventy percent of the landscape is still privately owned, and while it is open for hunting and fishing, it is not open to the general public unless the landowner so chooses. For Title 3, the State wildlife agencies are the agencies that provide the hunting and fishing opportunities. Lands that would be acquired with half of the Title 2 money may go into varying types of public ownership, and we agree that there will be some hard choices about appropriate public uses. Wildlife organizations are paying more attention to the designated land uses for lands that are put into different categories of Federal control. We will continue to work on this problem. We recognize that segments of society

are hostile to some of our favorite outdoor pursuits and to gun ownership. We do not see a connection with most of the activities that we anticipate under CARA legislation.

A good example of the way it can work positively is recent activity in the State of Missouri. Significant private timber lands of over 80,000 acres were transferred to the Missouri Department of Conservation and The Nature Conservancy. A few necessary natural areas have been protected for their intrinsic values, but by and large the lands are available to appropriate public uses and it all has occurred without controversy. Local laws and local land situations may make each outcome a bit different than the other. But in the end, the interest of the sporting public can be protected.

The Champion International transaction last year is actually an excellent example of how the significance of public conservation dollars can be increased through public/private partnerships. The Conservation Fund orchestrated the transaction in which critical habitats and important access areas were acquired by the New York Department of Conservation (DEC), while productive forest lands were acquired by private timber investors. Of the 140,000 acres offered for sale by Champion, 110,000 acres were kept within the private sector after the New York DEC had acquired a conservation easement that protected the land from development and insured free access to all citizens. The remaining 30,000 acres of Champion land were acquired by New York DEC to protect important river corridor habitats but will also be open to free access by all citizens. From a public hunting perspective, the transaction substantially increases available hunting areas for sportsmen. Under the terms of the easements and acquisition, lands that had been closed to public access for over 100 years are now open for fishing, hunting and trapping. In keeping with the long standing DEC policy of not segregating use to one special interest or group, existing hunting leases and camps have been given a 15 year lease on the private lands and a 5-year lease on public lands before they are to be removed. Public/private partnerships afford great potential to multiply the conservation benefits of CARA moneys. We think they, as the Champion/Conservation Fund project illustrates, have the greatest potential to secure lands for hunting and fishing in the future.

Question 4. Under S. 25, S. 2123, and S. 2181, how is the applicability of the Pittman-Robertson Act expanded?

Response. Title 3 under all three of these bills would use the Pittman-Robertson Act to add funding for State wildlife agencies to expand their wildlife programs. The main purpose is to deal with the vast array of wildlife and fish that have not received as much management attention as some game species. Funding for projects still would go to the States through the Fish and Wildlife Service with the established system that has worked well under Pittman-Robertson in the past.

Question 5. Could the additional funds lead to abuses of the Pittman-Robertson fund?

Response. Our Institute was directly involved in passing the original Pittman-Robertson legislation in 1937, and has been involved in all aspects of the Federal aid program since that time. Our staff worked directly with Chairman Young's committee in the House to develop reformed legislation. Our position has been consistent, that the Fish and Wildlife Service misused some administrative funds but also lacked clear guidance from the Congress about how those administrative funds should be used. Proposed legislation in both the House and Senate would fix that key problem by clarifying what is appropriate administrative use. We still feel that some details of that legislation need work to avoid problems in the future, and we continue to work on the committees on that topic.

Most of the activities reported upon span several administrations, and are not indicative of what happened with the entire program. By far, most of the money has been effectively delivered to the States. Further, the key problems, first surfaced both by GAO and the House Resources Committee, have been rectified by the Fish and Wildlife Service. Some of the acrimonious debates focus on personnel actions and other details which none of us are privy to under the law. We are confident that those will be dealt with by duly appointed investigative officers . . . Once again, we believe it has been well demonstrated that over 95 percent of the funding has been delivered as designed, and this is not indicative of a larger problem likely with new money.

Question 6. Under S. 25, S. 2123, and S. 2181, what is the total scope of potential land acquisition?

Response. We believe the scope of potential land acquisition has been considerably overstated by opponents of CARA. Title 1, generally passes funding to the States to restore coastal areas affected by development. We do not know how much acquisition would be involved, but have not had that described to us as an acquisition fund.

Title 2 would provide the $900 million to the Land and Water Conservation fund, with half going to State and local governments for recreational and outdoor needs, and half going to Federal Government through the normal channel for Federal acquisition. Specifically, the Federal Government is required to consider land trades, easement, and other options before dealing with willing sellers on fee-title acquisitions and with an array of new steps of oversight before a final decision is made. Under Title 3, some lands would be acquired, to complement the lands already acquired under Pittman-Robertson funding from the past. This fund, however, deals primarily with operation and management of broader programs for wildlife and will fund biologist and on-the-ground science and educational work for the public.

Question 7. Under S. 25, S. 2123, and S. 2181, how much land acquisition power has any restrictions or protections places upon it?

Response. The answer given to question 6 comes as close as our Institute can to answering this question. A large amount of CARA is not likely to be used for land acquisition, and that which will be used, particularly for Federal acquisition, has new and strong controls and Federal oversight.

Question 8. Under S. 25, S. 2123, and S. 2181, what is the potential for significant increases in discretionary spending above and beyond what would be dedicated to the trust fund?

Response. The only part of the pending legislation that would seem to have a potential for increases in discretionary spending in the future would be the operation and maintenance of new lands purchased. To the extent that lands are traded, easements are developed, or inholdings are purchased, it would not seem to be a large amount. Certainly, there would be some greater cost in the future if an individual knew a large block of land was purchased and had to be managed.

Question 9. Does creating a CARA trust fund violate the fiscal year 2001 budget resolution?

Response. We are not experts on the details of the Congress' action on budget resolutions. At the hearing on this legislation Chairman Smith pointed out that over $500 billion had been put in a trust fund for transportation, and over $40 billion had been dedicated to aviation.

The Congress has been able to do this for other programs, and we assume could accomplish this action as well.

STATEMENT OF THE NATIONAL RIFLE ASSOCIATION

May 31, 2000.

The Honorable ROBERT C. SMITH, *Chairman,*
Committee on Environment and Public Works,
SD–410 Dirksen Senate Office Building,
Washington, DC 20510.

SUBJECT: Conservation and Reinvestment Act (CARA)

Dear Mr. Chairman: The National Rifle Association (NRA) would appreciate having this letter placed in the record for the May 24, 2000 hearing held on CARA legislation by the Committee on Environment and Public Works.

The NRA supports CARA because of Title III—Wildlife Conservation and Restoration. A year ago, we submitted a statement in support of S. 25 when the Senate Energy and Natural Resources Committee held a hearing on CARA. However, given the number of legislative days remaining, we encourage the Senate to take up H.R. 701, the version of CARA that recently passed the House of Representatives, although all the bills under consideration contain a Title III whose provisions are similar to each other.

Title III is of vital importance to our 3.5 million members who engage in recreational shooting and hunting because it amends the Federal Aid in Wildlife Restoration Act commonly referred to as the Pittman-Robertson Act or PR. When it was enacted in the 1930's, PR was an innovative and farsighted response to rapidly declining wildlife populations and their habitats. The highly successful and highly enviable trust fund created by the enactment of PR has provided the States with over $3 billion in its six-decade history. The required State matching share has boosted that figure to over $4 billion. It makes the greatest sense to channel new funds to the States for wildlife conservation purposes through this same trust fund, as Title III in all of its legislative versions specifically directs.

In a Board resolution adopted in 1996, the NRA agreed that in spite of the largess provided by PR and its partner, the Federal Aid in Sport Fish Restoration Act, the States had insufficient funds to meet all of its wildlife management responsibilities,

not only for game species but for nongame and threatened and endangered species as well. The NRA, therefore, supports CARA because it not only taps into a new source for funding much needed wildlife work, but it provides for a generous level of funding to assist the States in addressing the unmet needs of wildlife species.

The NRA is pleased to be able to take a position in support of a proposal that increases wildlife revenue to the States. This was not the case with respect to the "Teaming with Wildlife" concept which Title III replaced. Although the NRA did not take a position on "Teaming with Wildlife" because the concept was never introduced into legislation, we nevertheless expressed serious concerns over the effect it would have on our members. The fact that CARA imposes no new excise taxes resolves those earlier concerns.

The NRA is in support of language in Title III that allows the OCS funds to be used for a "diverse array of species" and would strongly oppose having those funds earmarked exclusively for nongame wildlife, as some environmental groups have urged. With the infusion of OCS dollars, there is every expectation that all manner of wildlife will benefit. Indeed, Title III states that the funds should be used for "unmet" wildlife needs. CARA provides guidance because there is no reason to dictate to professional wildlife managers, who are in the best position to identify wildlife conservation priorities, how to spend these new funds. PR neither earmarks nor dictates the use of excise tax dollars that the States have received over the past 60 years and no reason has emerged to do otherwise.

Title III meets the desire of the hunting community to find additional funds to assist the States in addressing the needs of all wildlife, including nongame and threatened and endangered species. Title III provides relief to the hunter who has shouldered the responsibility for wildlife conservation and restoration for most of the last century and into the 21st century. Using PR as the vehicle for distributing these OCS funds to the State fish and wildlife agencies also acknowledges and protects the vital role that the hunter plays in the conservation of our nation's fish and wildlife resources. The NRA offers its assistance to the Chairman in helping to make the goals and objectives of CARA, especially Title III, a reality.

Sincerely,

SUSAN R. LAMSON, *Director,*
Conservation, Wildlife and Natural Resources,
Institute for Legislation Action,
National Rifle Association of America.

STATEMENT OF TED MILLER, 387 MAIN STREET, GORHAM, NH 03581

Honorable Senators,

My name is Ted Miller. I am an elected trustee of Local 75, a part of PACE International Union representing about 700 millworkers in the pulp and paper mills of Berlin and Gorham, NH. I am also active in the Pulp and Paperworkers Resource Council, an organization representing labor in over 100 wood product mills throughout the country. I have run for public office in the past as a Democrat, and I will be doing so again. I am requesting that the article below, which I wrote as an editorial for a local paper be placed on the record regarding the CARA hearing to be held on Wednesday, May 24, 2000. Thank you for your time and this opportunity. TM

The Government vs rural Americans

"There can be no permanent democracy. A democracy can only exist until voters discover that they can vote themselves money from the nations treasury. From that time on, the majority of the voters will always vote for the candidates promising the most money from the public treasury. The eventual result is a collapse of the democracy due to a loose fiscal policy. This is always followed by a dictatorship."—Alexander Tyler.

Item: 1989. Federal judge rules the spotted owl must be protected, places over 20 million acres government land in the northwest off-limits to timber harvesting despite there being no scientific need demonstrated for this action. Ten years later, over 300 mills have closed, among the 100,000 jobs lost besides millworkers and loggers, are teachers, firemen, and law enforcement.

In Catron County, New Mexico, which was dependent on Federal timber, the spotted owl claimed more victims, the people who once used to work for the county's largest sawmill. After the mill closure, families were forced to leave, the communities declined. With the families, went the children. In the town of Reserve, NM, the graduating class size shrank from as many as 25 down to 9 students.

In 1998, Liberty County, Florida saw their paper mill close as their timber industry had its access to timber from the Apalachicoala National Forest severely reduced. The cutback on timber harvesting came in the name of protecting the red-cockaded woodpecker. In 2 years, their school system lost 175 students. Many of the 6700 people remaining in Liberty County still dependent on the forest for living, have annual incomes of just over $19,000. No wonder the most popular bumper sticker reads "Save a logger. Eat a woodpecker".

Item: Wolves reintroduced into Arizona by the US Fish & Wildlife Service in 1998, have migrated into blew Mexico where they have killed family pets and scores of ranchers' cattle. After a pack of wolves killed a bull two miles away from the Glenwood Elementary School, a lone male wolf began hanging around a bus stop in tiny Alma, New Mexico. Fearful for their children's safety towns people kept their children inside until the USFWS trapped the pack and removed the lone wolf away from the community. USFWS wants to introduce more wolves into New Mexico. USFWS also intends to introduce wolves to Maine, upstate New York. and possibly Vermont.

Item: Trinity County, Northern California, 1999 The Bureau of Land Management starts a series of controlled bums that quickly burn out of control, consuming thousands of acres and several houses over a period of weeks.

Item: May, 200(). National Park Service sets a fire at Bandelier National Monument in New Mexico that quickly goes out of control, burns hundreds of homes in the town of Los Alamos, forces the evacuation of 30,000 people, and threatens a government nuclear testing lab. A Grand Canyon fire set by the UPS also rages out of control.

For over 900 years, generations of hard working rural Americans have provided food, oil, minerals, and forest products for the people of this country. Ranchers have proven that well-managed working grasslands are healthier than those that are set aside as preserves. Since 1920, forests have been growing faster than they have been harvested.

So why has our government declared war on rural Americans? The government cannot take care of the third of the country it already owns, now it wants even more land.

It is ironic that on the same day the NPS set the fire that destroyed Los Alamos, Congress passed the Conservation and Reinvestment Act, a bill that allows the government to spend three billion dollars a year on more land for parks and recreation programs. In Maine, New Hampshire, Vermont, hundreds of thousands of acres have already been bought by the Nature Conservancy and the Conservation Fund in anticipation of a massive government preserve.

As the government buys more land, the tax base of communities and counties shrinks. Local economies are stifled, and rural people are forced to move elsewhere to look for work. The only hope for many rural Americans is that CARA (Senate Bill 25) will fail in the Senate. Yet, the pressure is on from the people who are standing in line waiting for money from the public treasury. Senator Judd Gregg supports S. 25, and Senator Bob Smith is wavering toward also supporting that bill, which could go before the Senate anytime. If this bill is to be defeated, they need to hear you tell them to vote no on Senate Bill 95, the Conservation and Reinvestment Act. If this bill passes, we will surely be one step closer to the collapse of democracy envisioned by Alexander Tyler.

NEW HAMPSHIRE DIVISION OF HISTORICAL RESOURCES,
DEPARTMENT OF CULTURAL RESOURCES,
Concord, New Hampshire 03302–2043, May 24, 2000.

The Hon. BOB SMITH, *Chairman,*
Committee on Environment & Public Works,
U.S. Senate,
Dirksen Senate Office Building,
Washington DC 20510.

RE: S. 25, S. 2123, and S. 2181 [Conservation & Reinvestment Act (CARA)] and related legislation

Dear Senator Smith: Thank you for inviting the New Hampshire Division of Historical Resources (DHR) to present testimony concerning S. 25, S. 2123, S. 2181, and related legislation.

We are a State agency within the New Hampshire Department of Cultural Resources, and our director, Nancy C. Dutton, is also the State Historic Preservation Officer. The DHR receives Federal funding through an annual grant from the Historic Preservation Fund (HPF), which we match with State appropriations, with do-

nated cash, services, and equipment, and with reimbursements from other State agencies for specialized historic preservation services that we provide for them. Although we are a State agency, a substantial part of our statutory responsibilities under both State and Federal law is to conduct the Federal historic preservation program in New Hampshire. (This system of Federal/State cooperative administration of Federal statutory requirements at the State level has been hailed as a worthwhile model for other Federal grant and assistance programs.) Some of the principal HPF program components are the National Register of Historic Places; Federal tax incentives for income-producing historic preservation rehab work; the statewide survey of historic properties; the New Hampshire State historic preservation plan; Certified Local Governments (a best-practices incentive program for municipalities); review of Federal projects and mitigation of their impacts on historic properties; historic preservation technical assistance; and matching grants for historic preservation "brick and mortar" projects.

Unfortunately, in recent years the annual appropriations for the Historic Preservation Fund have been less than $50 million annually despite a statutory authorization of $150 million dollars a year and that has resulted in an annual HPF grant to New Hampshire of less than $390,000. per year. As a result, the DHR's matching grants program for "brick and mortar" projects has been suspended since 1980, except for a one-time demonstration program of "Jobs Bill" grants in 1983–1984, and for current preservation and restoration work at the Grasmere Grange in Goffstown, assisted through the Certified Local Governments program rather than with the regular HPF grants.

This is a triple burden; it means that we have a twenty-year backlog of work needed to rescue our distinctive historic properties from oblivion, or destruction, and to return them to the tax rolls or to civic and community service. It means that our ability has been diminished to compete globally in attracting high-quality visitors, workers, businesses, and entrepreneurs to enjoy our distinctive heritage resources, and to bring capital into our State economy. It also means that we have lost 20 years of investment potential for rehabilitating historic buildings and protecting historic places from inappropriate development. This is particularly distressing because economic studies, based on both national and New Hampshire data, consistently show that reinvesting in historic properties generates more jobs, accomplishes more work, and generates more money that remains in the local economy longer, in comparison to new construction.

Yet another dimension of the problem is that in the past 20 years the conversion of open land to new development has consumed important aspects of our archaeological heritage before we could save or salvage it.

In addition, the Division of Historical Resources is on the front line for anxious calls from citizens and local officials who have just learned that a treasured local landmark or historic district is at risk. Almost every day brings more painful stories which are all the more poignant because, without the Historic Preservation Fund at its fully authorized level, there is no financial help we can offer until July 2001 at the earliest, when limited and competitive funding from the newly enacted "NH Land Community Heritage Investment Program" will be available. In that interim, we risk losing irreplaceable parts of our heritage.

For example, not far from Concord is a historic farm that was the home of one of the nation's most illustrious statesmen, one whom New Hampshire is proud to call a native son. It has been designated as a National Historic Landmark (one of only twenty-two in New Hampshire). It is also a local landmark, a special place beloved by the people of its community. In addition to architecturally and historically significant buildings on the property, it also contains a historic family cemetery, prehistoric archaeological resources, and fertile agricultural fields which have been farmed by a neighboring family for many years.

The religious order that owns the property is under orders to sell it. If, as is likely, a developer purchases the place, the cemetery and archaeological sites possibly even the historic buildings will be at risk, and the farmland may soon be growing houses instead of corn and hay. If the multi-generational farm family loses the use of this land, the family members will not be able to sustain their operation solely on their own acreage, and will no longer be able to farm. The community will find itself pressured by development in an outlying area which has little infrastructure in place; and even if costly utility extensions are not needed, the added expenses of providing municipal services and schooling for the residents of the new houses will cost more than any real estate taxes generated by the new development.

If New Hampshire's share of the Historic Preservation Fund at the authorized level of $150 million were available, our annual HPF grant would increase to $1.2 million dollars. It would be possible for the municipality or non-profit preservation agencies to apply for funds to purchase an easement on the farm or to make a pre-

acquisition, holding the property until more extensive fundraising and private initiatives could secure its future. Lacking the fully funded historic preservation component in S. 25, S. 2123, and S. 2181, and with New Hampshire's new State Land & Community Heritage Investment Program funding unavailable for at least another year, no other readily available means have been found to respect and retain the history and current use of this nationally significant property, and that of the people whose lives are linked to it. Surely our heroes of history (and our present-day farmers) deserve better treatment!

This is but one of many such stories. Our conservation colleagues at the Society for the Protection of New Hampshire Forests could relate an equally compelling narrative of their efforts to preserve the large and varied complex of nationally significant buildings at The Rocks Estate (the former Glessner estate) in Bethlehem, New Hampshire, in an area where buildings are subject to extreme weathering. The spirit and the strength for preservation are present, but the necessary money a prudent investment in the past for the future is not.

We also hope that the Senate will allow States the maximum flexibility for allocating and expending the HPF money in accordance with a state-focused consensus about pressing priorities—developed at the State level through a long-established and well-functioning public participation process. One-size-fits-all national mandates and special set-asides based on Washington views rather than documented State and local needs are impractical and inefficient when applied to resources as individualized and character-defining as historic properties and places.

In addition, we should note that the actual system by which HPF grant reimbursements are made has been functioning well for a third of century, and is fully tested by programmatic and fiscal audits on a recurring basis.

An interlocking system of experienced staff and internal and external controls, both State and Federal, precludes the possibility of a "Big Dig" debacle. More money available for the HPF would be a difference of degree rather than kind; it would mean more projects, not more problems.

For these, and many other such reasons, we hope that in its consideration of S. 25, S. 2123, and S. 2181, and any other legislation related to the "Conservation & Reinvestment Act," the Senate Committee on Environment and Public Works will include the Historic Preservation Fund at the full $150 million annual authorization, and in so doing will recognize that an annual HPF appropriation at $150 million would be an investment, not an expense.

If you have any questions or concerns that you would like for us to address, we will be happy to respond and to provide additional information.

Sincerely,

LINDA RAY WILSON,
Deputy State Historic Preservation Officer.

TESTIMONY OF THE HONORABLE BOBBY WHITEFEATHER, CHAIRMAN, RED LAKE BAND OF CHIPPEWA INDIANS TRIBAL COUNCIL

Mr. Chairman, I thank you and the other distinguished members of the committee for this opportunity to provide testimony on behalf of the Red Lake Band of Chippewa Indians, concerning the Conservation and Reinvestment Act of 1999 (CARA). The Red Lake Band is a Native American Indian tribal government recognized by the U.S. Government.

Red Lake and, I believe it is safe to say, most of the 557 federally recognized Indian tribes across the country, strongly support CARA and the lasting benefits it will provide for conservation and future generations of Americans.

My testimony today will focus on Titles III and VI of S. 2123, as these are of critical concern to tribes. Title III of CARA, Wildlife Conservation and Restoration, provides up to $350 million annually to the States, the District of Columbia, and the territories to conduct fish and wildlife restoration projects. I am extremely concerned that Title III apportions nothing to federally recognized Indian tribes, and I am seeking an amendment to fix this. I also want to express our requests in the strongest terms, that Title VI, Federal and Indian Lands Restoration, be kept intact as part of the final legislation. I will justify my requests momentarily, but first I want to provide some background information about Red Lake which I believe will assist you in judging the merits of my requests.

Red Lake People and Resources

Red Lake is a relatively large Tribe with 9,300 members. Our 841,000 acre Reservation, located in northwestern Minnesota, is held in trust for the Tribe by the United States. While it has been diminished in overall size, our Reservation has

never been broken apart or allotted to individuals. Nor has our Reservation ever been subjected to the criminal or civil jurisdiction of the State of Minnesota. Consequently, we have a relatively large land and water area over which the Tribe exercises full governmental authority and control, in conjunction with the United States.

Red Lake Band members' lives center around a seasonal cycle of reliance on natural resources. Fishing, hunting, and gathering activities are as important today as they were 200 years ago. Time has certainly changed some aspects of this cycle. The desires of Band members to purchase modern-day products and goods has led to a resource-based cash economy of fishing and logging that began early in the 20th century and continues today. However, concerns about resource depletion in recent years have led us to seek out economic diversification.

Due in part to our Reservation's location far from centers of population and commerce, we have few jobs available in the private sector economy. While unemployment rates throughout America have dropped to historically low levels, our unemployment rate remains at an outrageously high level of 60 percent. The lack of good roads, communications, and other necessary infrastructure continues to hold back economic development and job opportunities. We have had limited success with gaming, but our remote location prevents the type of often-cited, large-scale gaming operations run by a small handful of tribes throughout America. The limited gaming revenues we do receive are devoted to human-services programs like meals for the elderly, our nursing home, and community-based activities. Unfortunately, given the pressing needs of people who live on the edge of survival on our impoverished Reservation, none of these funds can be devoted to natural resource protection on our Reservation.

Relatively speaking, our resources are vast and important to many people who are our neighbors beyond our Reservation borders. The resources for which the Red Lake Band, not the State of Minnesota, is responsible, include 350,000 acres of forests, 471,000 acres of wetlands (including forested wetlands), 237,000 acres of lakes, and 55 miles of rivers and streams. Title to all of these resources are held in trust status for the benefit of the Red Lake Band by the United States. Many of our resources are truly unique.

Our Reservation includes much of northern Minnesota's patterned peatlands, which have received worldwide scientific recognition because ours is the largest peatland resource outside of Alaska and because many rare and endangered species reside in these areas.

Our Tribe's natural namesake, the Red Lake, is the sixth largest natural, freshwater lake in the United States. It is larger than Lake Champlain, a lake which may be more familiar to you.

Until just recently, Red Lake was home to the largest and longest continuously operated freshwater commercial fishery in America and provided important employment for some 500 reservation families. Unfortunately, similar to the fate of commercial fisheries the world over, stocks of walleye, which were the principal commercial Red Lake species, collapsed in the mid-1990's forcing the closure of our fishery for the first time since the beginning of World War I. The Tribe has since implemented an aggressive recovery plan in conjunction with the Federal Government and the State of Minnesota, which represents the largest freshwater fish species recovery program in America today.

I have provided the above information to help you understand that we have been blessed with abundant natural resources, and the conservation and perpetuation of these resources is extremely important to my people and their direct survival needs.

Resource Management

Our tribal resources are managed by a small but dedicated group of biologists, technicians, and wardens. Our relatively meager natural resources funding comes primarily from Bureau of Indian Affairs (BIA) programs. Unfortunately, recent Federal budget cuts in BIA natural resource funding has diminished our resource management capacity by 20 percent in just the last 5 years. We have attempted to make up the difference by seeking outside grant funds, but the opportunities are very limited, especially for fish and wildlife conservation. Still, we do the best we can with the limited funds we have.

Tribal Access to CARA Title III

Tribes have proposed that on the basis of fairness and equity, we should receive 2.25 percent of the new "wildlife conservation and restoration account" subaccount created by Title III in the Federal aid to wildlife restoration fund. This percentage is based on the ratio of Indian trust land, which tribes have the responsibility for protecting and for which no Federal Aid funds go toward fish and wildlife conservation, to the rest of the land area of the United States.

Targeting such a percentage allocation to Indian tribes for the benefit of trust land and water resources is necessary in order to provide a critically needed, recurring source of funds like what the Act provides to the States and territories—one that is allocated based on equitable principles. The tribal amendment would distribute the tribal allocation among the various Indian tribal governments according to an inter-tribal formula that divides the tribal funds, one-third of which is based on the ratio to which the trust land area of each tribe bears to the total trust land area of all tribes and two-thirds of which is based on the ratio to which the population of each tribe bears to the total population of all tribes.

The argument for tribal access to these funds is based primarily on two factors. First, the underlying principles of CARA, which tribes strongly support, are to protect all of America's land and water resources. Among the most important of these resources to the American public is fish and wildlife. Like the States and territories, tribes have a critical need for a dedicated, recurring source of funds for fish and wildlife restoration, and only Title III provides this. Second, for a very long time, tribes have argued that the apportionment of other Federal Aid funds is unfair, in that tribes are not included in the apportionment formulas, even though our members, like all Americans, pay the same excise taxes on hunting and fishing equipment. Tribal attempts to amend these acts in the past have met with opposition from the States during periods of time when the Federal Aid fund allocations were not expanding and States were relying heavily on these recurring funds to finance fish and wildlife restoration projects With the new Title III fund, this basic inequity, and the frustration experienced by tribes, can be remedied by ensuring access by tribes to the new Title III Federal Aid funds through a statutory provision.

If the tribal amendment were to be extended, as a matter of equity, to the previously authorized Federal Aid in Fish and Wildlife Restoration Act base apportionment formulas, we believe that could engender State opposition since the allocations to the States and territories under those formulas are longstanding. Therefore, our proposed Title III amendment is in effect a compromise. The amendment would affect only new CARA subaccount allocations never before raised and distributed. The basic apportionment formulas under the Federal Aid Acts would remain as they currently exist, with no apportionment going to tribes.

Keep CARA Title VI Intact

Title VI of S. 2123, Federal and Indian Lands Restoration, provides up to $200 million annually for a coordinated program on Federal and Indian lands to restore degraded lands, protect resources that are threatened with degradation, and protect public health and safety. Of this amount, 60 percent would be allocated for Department of Interior lands, 30 percent would be allocated for Department of Agriculture lands, and 10 percent would be allocated for Indian lands. This allocation formula is based on acreage.

Like the Federal Government and the States, tribes have an immense wealth of natural resources under their management and care. However, tribes lag far behind the Federal Government and the States in our capacity to protect these resources. The development of this capacity takes time and dedicated financial resources, and tribes have long been disadvantaged in this area.

The $20 million allocated to tribes under this title is modest when you consider that it must be spread among more than 550 tribal governments and 56 million acres of Indian trust land. However, it does represent a critically important source of funds, and I strongly urge you to ensure that Title VI is kept intact in the final CARA legislation. A final request I have regarding Title VI is that language be included requiring the Secretary of Interior to consult with tribes in the development of the competitive grant program for allocation of funds to tribes. We have attached a proposed amendment that would do this.

Conclusion

The protection of America's natural resources is of immense importance. CARA represents perhaps the greatest opportunity ever to provide a lasting legacy of resource preservation for future generations of Americans. CARA is consistent with the first Americans' view of protecting Mother Earth.

The equitable inclusion of tribes in the apportionment of CARA Titles III and VI as I have described today is fair and reasonable. More importantly, if tribes hope to preserve our resources and our way of life, we need access to funds in a manner similar to other agencies charged with the protection of America's land and water. I sincerely hope that you will take my words to heart, and do the right thing on behalf America's Indian tribes.

I have attached to this testimony proposed amendment language for CARA Titles III and VI. Also attached is additional background information which justifies my

request. I would be pleased to provide any additional information you need. I thank you for the opportunity to present testimony today on behalf of the Red Lake Band of Chippewa Indians.

STATEMENT OF WAYNE E. VETTER, PRESIDENT, NORTHEAST ASSOCIATION OF FISH AND WILDLIFE AGENCIES

I would like to thank Senator Smith and this committee for allowing me the opportunity to provide testimony on this very important conservation funding bill. As you all know, conservation funding is one of the most popular issues with voters. You also undoubtedly know that it is extremely difficult to get conservation funding bills passed, or even heard, because there's always something else more critical. This is truly a once in a lifetime opportunity to pass a popular and pro-active bill to guarantee funding for the protection and management of our invaluable natural resources.

This committee can greatly assist us in the implementation of these programs by supporting the amendments suggested by the International Association of Fish & Wildlife Agencies for Title III of these bills. In particular:

Increasing the floor for minimum states from ½ of 1 percent to 1 percent, Implementing a 5-year phase-in period with 90 percent Federal to 10 percent State match, Remove the 10 percent cap on wildlife associated recreation spending, Reinstate the provision for up to 10 percent of the funds to be used for law enforcement, Including wildlife conservation planning language, and Increasing the level of wildlife funding in Title III to $450 million or 10 percent of OCS revenues, whichever is greater.

Increasing the floor for minimum States from ½ of 1 percent to 1 percent will have a great effect on small States like mine. This is a more fair distribution of funds since all States, small and large, need to fund a full range of wildlife programs. While our State is small, it is within a 1-day drive of all the major northeastern cities, and is a playground for many of those outdoor enthusiasts. This money is desperately needed as development and recreational use pressures on our landscape are intense. Remember, green space doesn't cost, it pays. We currently have about 75 percent of over 500 vertebrate wildlife species found in New Hampshire which don't qualify for State funding. This minor change, which is supported by the State fish & wildlife agency directors, would double the amount of money coming to New Hampshire from $1.75 to $3.5 million. Our total nongame program budget is just over $130,000 annually (including salaries) to manage over 400 species of wildlife. While the CARA funds would be spread over several programs within the Department I think you can understand the impact this amendment could have on New Hampshire and several other small States, with minimal impacts on larger States. I like to say that ½ of 1 percent will support the infrastructure necessary for a full range of wildlife programs within the State, and the other percent of a percent will provide the money necessary to make sure those programs have the dollars necessary to actually do the work.

Second, a 5 year phase-in period where the Title III money would be available with a 90 percent Federal and 10 percent State match rate would allow all States the necessary time to develop better funding mechanisms for the state side match. We support moving the cost share ratio to 75 percent Federal and 25 percent State funds after 5 years as it will increase the overall scope of the program by mandating increased State contributions. This is in the best interest of our wildlife resources, but may be hard for some States to achieve in the short term. It only makes sense to assure the Federal funds appropriated are used rather than reverted for redistribution simply because a State in need couldn't meet the cost share. This will eliminate unnecessary stress on State fish and wildlife agencies who currently receive no general fund moneys and/or have small programs. New Hampshire Fish and Game is one of those agencies.

Third, eliminating the ceiling on wildlife associated recreation projects will allow States to make a "big bang" early by putting programs and facilities in place which will touch large numbers of non-traditional resource users, thereby generating support for fund raising efforts to make the increased match later. Recreation is the springboard for a conservation ethic-it is how people begin their love affair with the outdoors. Recreation related projects may well be one of the best ways of launching CARA activities within our State. To limit those funds may not be in anyone's best interest.

Fourth, reinstating the provision, which would allow up to 10 percent for conservation law enforcement will recognize the role they play in protecting our resources. State fish and wildlife conservation officers have many opportunities to

work with landowners and the public to implement voluntary, proactive fish and wildlife protection and public education and outreach programs. By reinstating this language you will give agency directors the ability to make the decision on how best to use the CARA money, and the tremendous opportunity to increase that face to face contact with the public that conservation law enforcement officers present.

The fifth amendment referenced above requests that planning language be added which will help to guide all States to develop a comprehensive wildlife program with the funds provided, and to strategically prioritize and target Title III conservation funds to most effectively address the unmet needs of a diverse array of wildlife species and their habitats. This language will set the stage for a substantive public input process, which will strengthen the relationship between the public and State agencies, and work toward maximizing the benefits of this program.

And, finally, I ask you to consider increasing the level of wildlife funding under Title III to $450 million or 10 percent of OCS revenues, which ever is higher. As good as this program is for wildlife, it still falls well short of the estimated $1 billion additional dollars necessary to fully fund wildlife programs in the States. Our profession has perhaps suffered at times in the past by not asking for what is really needed to fulfill our mandates. This is our opportunity to ask, and we are. This would make a good program great.

Mr. Chairman, on behalf of the International Association of Fish and Wildlife Agencies, the Northeast Association of Fish and Wildlife Agencies and the New Hampshire Fish and Game Department, I thank you for the opportunity to speak before you today, and urge you to pass this Legislation and the amendments suggested by IAFWA. Together we can keep common species common.

Wayne E. Vetter, Executive Director New Hampshire Fish & Game Department 2 Hazen Dr. Concord, NH 03301 (603) 271–3511

STATEMENT OF THOMAS M. FRANKLIN, WILDLIFE POLICY DIRECTOR, THE WILDLIFE SOCIETY

The Wildlife Society thanks Chairman Bob Smith, Ranking Member Max Caucus, and the members of this committee for the opportunity to provide testimony on S. 2123, the Conservation and Reinvestment Act of 1999, S. 2181, the Conservation and Stewardship Act, and S. 25, the Conservation and Reinvestment Act. The Wildlife Society is the association of wildlife professionals dedicated to excellence in wildlife stewardship through science and education. We have worked since 1937 to encourage a scientific approach to managing and protecting the Nation's wild living resources. Our members are the "front line" professionals who are employed in the private sector, academia, and in State and Federal agencies to ensure the wise stewardship of wildlife resources.

If ever there were an opportunity to help ensure long-term conservation of wildlife resources, that opportunity is before us now with the conservation funding legislation that has passed the House and currently exists in the Senate. Just as the Wildlife Society has actively participated in the development and implementation of some of the most historically significant conservation legislation of the last century, so we begin this century by supporting the passage of a conservation funding bill that provides dependable, long-term funding for our Nation, imperiled wildlife populations.

The need for sufficiently funded proactive wildlife management continues to grow, as does the public demand for the responsible stewardship of wildlife. These public demands are reasonable and should be met: without proper conservation, more and more species will become threatened and endangered. Trying to reverse these trends, rather than preventing them, is extremely expensive and inefficient, and the public foots the bill. Annual expenditures for recovery efforts of listed species have risen from $43 million in 1989 to $312 million in 1995. In addition, although funding exists for game management through the Pittman-Robertson Federal Aid in Wildlife Restoration Act of 1937, the public's interest in wildlife observation is substantial. According the U.S. Fish and Wildlife Service, wildlife-watchers spent $29 billion in State and local economies in 1996, 39 percent more than that spent just 5 years before. And nature-based tourism is increasing, at a higher rate than any other segment of tourism worldwide. We would like to offer recommendations for the wildlife title of a compromise bill based on elements found in Title III of S. 2123, S. 2181, and S. 25. The Wildlife Society recommends that the following specific elements be included in the final wildlife title of the bill:

Wildlife conservation strategy found in S. 2181. This language provides for efficient and effective use of Title Ill funds to address all wildlife species needs and has broad support among wildlife conservationists. No cap on wildlife recreation pro-

gram spending. Success of wildlife conservation and management programs relies on public support. Public support is fostered when people are engaged in wildlife-related recreation from which they can develop a personal connection to wildlife values. These recreational programs should not be limited by a 10 percent funding cap. Both S. 25 and S. 2181 already address this concern.

Increased base funding for States from ½ to 1 percent to benefit small population/small land-base States. The benefits to wildlife conservation in these 11 small States (NH, SD, NJ, CT, DE, RI, VT, ME, ND, HI, and WV) would greatly outweigh the minimal reduction in funds distributed to all other 39 States (a total reallocation of $11.9 million, or 3.4 percent of the total, would result from this change). In many of the small northeastern States, wildlife managers face many unique challenges due to rapid development and increasing human populations. The problems they face are no less pressing than those of larger States. No existing bill currently addresses this issue. Assure adequate funding for wildlife conservation, recreation and education. The $350 million specified in CARA and CASA is the minimum necessary to allow State wildlife agencies to begin addressing the estimated $1 billion per year need.

If States continue to be deprived of dependable funding for wildlife conservation, the declining trends of many species will continue to accelerate over the next few years. More than 2,000 non-game, non-listed species of fish and wildlife in the ITS are lacking the attention that they need. Without sufficient funding, State resource managers will be unable to act as more and more species reach a critical status and are listed as threatened or endangered. We all know that our diverse wildlife is a source of pride for the citizens of this country—so why wait until conditions are severely degraded before taking action? There are cost-efficient, effective and popular ways of providing, landowners with incentives to conserve wildlife habitat, by providing States with the resources they need to be proper stewards of this nation's wildlife, these responsible conservation techniques will be implemented.

The Wildlife Society commends the members of this committee who have sponsored or cosponsored some form of conservation funding legislation. All of the existing bills are worthy of praise, and are a testament to the commitment and foresight of this Congress to have a conservation legacy that benefits all American citizens. We are confident that your commitment to bipartisan legislation will produce a compromise bill that preserves the integrity of the original bills and provides for thorough, effective use of wildlife conservation funding. Wildlife professionals, the American public, and their children will thank you for it.

STATEMENT OF CHUCK CUSHMAN, COORDINATOR, KEEP PRIVATE LANDS IN PRIVATE HANDS COALITION, BATTLE GROUND, WA

SUBMITTED TO THE HOUSE COMMITTEE ON RESOURCES, JUNE 12, 1999, CONSIDERING H.R. 701, CONSERVATION AND REINVESTMENT ACT

We regret that we were denied the opportunity to testify in person at the hearing in Salt Lake as were many other organizations that requested to testify. We will share our concerns about H.R. 701, the Conservation and Reinvestment Act of 1999, H.R. 798 and the Clinton/Gore Lands Legacy Initiative. We have considerable personal on the ground experience with how the Land and Water Conservation Fund really works, and the policies and practices of the Federal land agencies as they carry out their land acquisition programs. If H.R. 701 or any of these other bills and initiatives become law it will make land acquisition in America far more threatening to the future of America.

We compliment Chairman Don Young on his most distinguished career in Congress and the good he has done for multiple use and conservation in general. We feel, however, that H.R. 701 is a misguided response to a demand by several powerful special interest groups for a new entitlement and subsidy giving them a disproportionate share of our country's natural resources and an automatic yearly hand in the Federal treasury.

I am Charles S. Cushman, Coordinator of the Keep Private Lands in Private Hands Coalition and Executive Director of the American Land Rights Association. My father was a ranger for the National Park Service and I served the Park Service in the second Student Conservation Corps in Olympic National Park in 1959. I also served as a volunteer with the Audubon Society at what is now known as Channel Islands National Park. My son worked for the Park Service in the living history center in Wawona, Yosemite National Park and I served as a member of the National Park System Advisory Board from 1981 to 1984. I have personally visited most Park

Service areas where land acquisition has taken place in recent years as well as many other Federal areas.

The Keep Private Lands in Private Hands Coalition opposes H.R. 701, H.R. 798 and the Lands Legacy Initiative. It has over 600 organizations supporting it including the following:

Citizens for a Sound Economy
Americans For Tax Reform
Independent Forest Products Association
National Tax Limitation Committee
Alliance for America
National Wilderness Institute
American Agri-Women
Defenders of Property Rights
Pennsylvania Landowners Association
Private Landowners of Wisconsin
Riverside Farm Bureau CA
Schohrie Farm Bureau NY
Republican Party of Riverside County CA
Women Involved In Farm Economics—WIFE
Stop Taking Our Property—IN
Niobrara Basin Dev. Association NE
Small Property Owners Association
American Policy Center
Mt. St. Helen Trackriders WA
Multiple Use Association ME/NH
Associated Industries of Vermont
Frontiers of Freedom
American Land Rights Association—WA
Citizens For Constitutional Property Rights FL
People for the Constitution NV
Public Lands for the People CA
Competitive Enterprise Institute DC
New Mexico Public Lands Council
Environmental Conservation Organization
Frontiers of Freedom WY
Property Rights Foundation of America—NY
Alabama Family Alliance
NY Blue Line Council
Property Rights Alliance WA
Klamath All. for Resources and Environment CA
Eastern Oregon Mining Association
Citizens for Private Property Rights MO
Keep ME Posted ME
Maine Property Rights Alliance
NW Council of Governments WA
Riverside & Landowners Protection Coalition TX
Clearwater Resource Coalition MT
Montana Women Involved In Farm Economics
Take Back Kentucky
High Desert Multiple-Use Coalition CA
People for the USA Rio Virgin—UT
American Agriculture Movement, Inc.
Common Sense for Maine Forests
Washington Contract Loggers Association
Exotic Wildlife Association TX
Center for the Defense of Free Enterprise
Northeast Regional Forest Foundation VT
National Taxpayers Union
Montanans for Multiple-Use
Grassroots ESA Coalition
U. S. Taxpayers Alliance
Communities for a Great Northwest
Black Hills Women In Timber—SD
Property Owners Standing Together—VT
Citizens for Private Property Rights CA
Fairness to Land Owners Committee—FLOC
Vermont Forest Products Association
Montana Mining Association
Illinois Agri-Women
NM Woolgrowers Action Committee
East Mojave Property Owners (CA)
Bootheel Heritage Association—TX
Fire Island Nat. Seashore Adv. Board NY
California Outdoor Recreation League
People for the USA—Dent County, MO
People for the USA—Lander Valley, WY
Keep Maine Free
Washington County Alliance—ME
Blue Ribbon Coalition
Western Mining Council CA
Chamber of Commerce, Wrangell AK
Arizona Trail Riders
Alaska Wildlife Conservation Assoc.
New Mexico Cattle Growers
New Mexico Woolgrowers
Maine Conservation Rights Institute
League of Private Property Voters
Texas Wildlife Association
Nat Assoc of Reversionary Prop Own. WA
Idaho Cattle Association
Curry County Oregon Project
Vermont Cabinet Makers
Clallam County WA
Adirondack Solidarity Alliance
Unorganized Territories United, Maine
Columbia Basin Environ. Council—WA
People for the USA Beaverhead MT
Pennsylvania Landowners Association
Rhode Island Wiseuse
Pennsylvania Forest Industry Association
North Shore Association—MI
Wind River Multiple Use Advocates—WY
Family Water Alliance—CA
Take Back Arkansas
Citizens Against Refuge Proposal—OH
Hill Country Heritage Association—TX
Kankakee River Prop. Rts. Task Force—IN
Davis Mountains Trans-Pecos Herit. TX
Trans Texas Heritage Association

The American Land Rights Association, formerly the National Inholders Association, represents private landowners throughout the United States. Of special interest are those people owning private land or other interests within Federal boundaries or who are affected by Federal statute such as the Endangered Species Act and various Wetlands regulations. ALRA has over 18,000 members in 50 States and over 200 federally managed areas. There are an estimated 1.2 million inholders nationwide. Many of these live in communities in National Forests who have now idea they are now threatened by a massive increase in land acquisition caused by H.R. 701.

Inholders are landowners in National Parks, refuges, forests and other Federal areas, recreation residence cabin owners and other special use permittees in National Forests, ranchers in areas managed by the Bureau of Land Management and Forest Service, small miners on Federal lands, all kinds of inholders in and adjacent to FWS Wildlife Refuges and many other types of rights holders. They are also people who are impacted by the management, regulation of and access to Federal areas.

The American Land Rights Association also works to support continued multiple-use and productive contributions from our Federal lands. Recreationists, miners, hunters, sportsmen, ranchers, landowners, permittees, handicapped, elderly, and many others are encouraged to cooperate to support access and multiple-use on our Federal lands and to oppose selfish single-use designations that limit access to millions of American families.

American Land Rights, National Inholders Association as it was called then, made a fateful decision in 1980 with the proposal by former Senator Alan Cranston to make Big Sur, California into a National Park. The idea of opposing parks was foreign to my personal beliefs but in the 2 years since our association was formed in 1978, we had been unable to stem the tide of abuses against landowners inside federally managed areas. We had reduced them and stopped some when we heard about them in time, but overall, the wave continued.

We made a conscious decision that since we could not get the Park Service, and to a lesser extent other agencies, to stop abusing inholders inside Federal areas, we would begin to fight to keep people from becoming inholders. It was not an anti park decision. It was a pro people decision. Simply put, if we couldn't get the Federal Government to take care of the inholders they already had, we would try not to let them have any more inholders.

H.R. 701 clearly justifies our decision. If H.R. 701 passes, any families we had allowed to become inholders would now be subject to being aggressively eliminated over time. H.R. 701 is actually anti-conservation because it says that if people do a good job of taking care of nice places, they will be rewarded by being thrown out of those places.

"Those That Fail to Remember History Are Bound To Repeat It"

To date little has been done by the Congress or the Federal agencies to respond to the following reports by the General Accounting Office critical of land acquisition policies and practices carried out by those agencies. In large measure, the response by Congress has been to give the Park Service, Forest Service, Fish and Wildlife Service and Bureau of Land Management less money to buy land. That greatly reduced the problem. More money will start the problems all over again. We're reminded of the Clinton campaign motto in 1992, "It's the Economy Stupid." In the case of land acquisition, "It's the Money Stupid." The scope and harm caused by land acquisition is simply a function of how much money the Federal agencies get and the type of oversight they receive. H.R. 701 over time will increase the money and reduce the oversight. The result will be severe economic and cultural damage to rural America.

Today there is largely a new generation of Members of Congress and staff who do not remember the horror stories of the 1960's, 1970's and 1980's and even the 1990's. Most Members of Congress don't remember the days when every Member of Congress had to become a management consultant to the Park Service because the agency was unable to solve its conflicts. The current situation at Saddleback Mountain Ski Area in Maine is a perfect example. For over 20 years the landowner has been unable to get the Park Service to resolve the route of the Appalachian Trail. Without Congressional intervention, there is no hope.

The owner of the ski area has been prevented from upgrading and expanding his potentially world class facility because the Park Service has continually refused to settle on a trail route. If the Park Service can't get it right on less than three miles of trail, why should the public in Maine or anywhere else trust them with billions of additional dollars for land acquisition.

It is critical that the House hold regional oversight hearings so that it can get a better sense of the land acquisition abuses of the past. If the Resources Committee

does not want to face up to the history of land acquisition, then individual Congressmen should take the initiative and hold their own hearings in their own districts.

Some will say that the GAO reports listed below are dated. They are the most current reports on a problem that was greatly reduced with the reduction in funding. Since Congress is considering greatly expanded and guaranteeing the funding, these reports must be examined carefully to try to make sure any potential legislation does not cause a repeat of the same mistakes.

GENERAL ACCOUNTING OFFICE (GAO) REPORTS ABOUT LAND ACQUISITION

- The Federal Drive To Acquire Private Lands Should Be Reassessed" (CED–80–14) (December 14, 1979).
- "Federal Land Acquisition and Management Practice" (CED–81–135) (Sep. 11, 1981).
- "Lands In The Lake Chelan National Recreation Area Should Be Returned To Private Ownership" (CED–81–10) (Jan. 22, 1981).
- "The National Park Service Should Improve Its Land Acquisition and Management At Fire Island" (CED–81–78) (May 8, 1981).
- "Federal Protection of Wild and Scenic Rivers Has Been Slow and Costly" (CED–78–96) (May 22, 1978).
- "Federal Land Acquisitions By Condemnation Opportunities To Reduce Delays and Costs" (CED–80–54) (May 14-, 1980).
- "Limited Progress Made In Documenting and Mitigating Threats To Parks" (RCED–87–36) (February 1987).
- "New Rules for Protecting Land In The National Park System Consistent Compliance Needed" (RCED–86–16) (October 16, 1985).

PBS FRONTLINE DOCUMENTARY, "FOR THE GOOD OF ALL"

The committee should watch the hour long documentary, Public Television's "Frontline' about the Cuyahoga Valley NRA in Ohio which aired on June 6, 1983. It could have been filmed in areas managed by the Park Service, Forest Service and Fish and Wildlife Service. The only difference between when this film was made and today is money. You give the Park Service the money, and in 5 years, you'll get another film.

This tragic film documents the broken promises by the Congress and the Park Service in the Cuyahoga Valley National Recreation Area between Akron and Cleveland, Ohio. Only 29 homes were to be taken for the park. The law even promised the use of easements. Yet the number of homes purchased was well over 300, the small community was destroyed, churches and schools closed, their tax base eroded by unnecessary land acquisition. Cuyahoga Valley could have been a success without much land acquisition.

Willing Seller A Myth

"John Jones is a willing seller. He didn't want to sell and held out as long as he could. First the Park Service came in and purchased the, homes, farms and timberlands of his neighbors who did want to sell. There will always be some. Then the agency began to search out those families who were in some kind of financial distress such as from a death, divorce, loss of job and other reason.

"Jones watched as his community was checker boarded by the Park Service. He remembered being told when the park was created that he would not be forced out. But now the agency was targeting local businesses and the county itself. Many small businesses were purchased and put out of business. The Park Service purchased the holdings of several large timberland companies. Smaller timber owners began to sell as they saw that the logging infrastructure might eventually not be there. The mill eventually had to close because it could not get enough wood. Like a natural ecosystem, the economic ecosystem, of a community is very fragile.

"As more timberland was purchased, more homes and farms began to disappear. Many residents wanted to hold out but with fewer jobs in the county, the value of their homes and property began to go down. As the Park Service purchased them, they lay empty for months or even years because the agency said they did not have the funds to clear them out. They became havens for vandals and drug houses.

"The Nature Conservancy and other land trusts began to circle like buzzards. They would buy from financially distressed landowners, then turn the land over to the Federal Government. Time after time this happened, quietly, secretly arid silently they helped undercut the community.

"As properties were taken off the tax rolls, the schools and county services bean to suffer. Several closed making longer trips to school necessary for families. The school district didn't have the money for the necessary busses. Roads began to close.

As the Park Service purchased large areas, the agency put up chains across the roads. Some of these roads had been used for years by neighbors as access points to the river or to go camping, wood cutting or berry picking. Usually we knew another way but over time, all the access was closed off.

"Churches, clubs and other community services began to close. The library was in trouble. The hours were cut for it and other county services. There had been several markets in town and three gas stations. There is only one of each now and it looks like the store will close. That means an 80 mile drive to Millersville for groceries. Over time, other essential services and stores began to disappear.

"When the park was created they promised tourism. I don't know where it is. We gave up a lot of good jobs for this park and the tourists don't come. Several motels and restaurants were built in anticipation of the visitors. All but one restaurant is closed, and it cut its hours back. We have two motels still open but they are struggling.

"We have a very nice ski area but a Park Service trail runs through it. The agency has harassed the owners so often that they're close to giving up. They can't get any kind of commitment from the Park Service as to a final trail location so they can't invest in modernizing and expanding the ski area. There sure are a lot of people in town who would benefit if the ski area was allowed to meet its potential. We thought the Park Service supported recreation. Now it seems the opposite is true. We heard from people out West that the Park Service and the environmental groups were becoming anti-recreation. It couldn't be true we said. It looks like we were wrong. They seem to be against skiing and snowmobiling. It doesn't make sense.

"The county had no choice but to raise our taxes. The tax base for the county was shrinking almost daily. We had one local bank and several bank branches. Now there is only one branch open as part of the market, but it may go away too. The banks have not made loans in our town for several years now because the future is unstable. They won't make loans to loggers, equipment suppliers, or small businessmen because of threat from the Feds. No new houses have been built in some time. The theater closed and the cable television company is considering shutting down. It feels like a ghost town.

"Some of my neighbors are determined to stay and suffer the consequences and severe hardships of living within a now nearly all Federal enclave. I love my town. I was born and raised here, went away to college and came back. It looks like that even though I stood up to those Federal land acquisition agents, there will soon be nothing left to stand up for. I never thought I'd be a willing seller. But I am now."

The "willing buyer, willing seller procedure of acquiring land touted by park officials is 'meaningless' and a more proactive method is generally used," said William Kriz, Chief of Land Acquisition in an article in the Concord Journal in 1988.

Do Most People in Parks Want to Sell?

That's Nonsense!

The American Land Rights Association would not exist if that were true. People would not support us with their membership dues and extra contributions if all they wanted to do is sell. A very small part of the authorized backlog is people who are willing sellers.

But these relatively few cases are hyped by the green groups and some in Congress to justify their land acquisition goals. Let there be no mistake. If a person wants to sell, we support his ability to do so. But having the government involved corrupts the whole system. Once a person makes the mental decision to sell, he'll sell the easiest way possible. The Park Service and other agencies will have little reason not to want to buy with a trust fund behind them. The result will be even more of what has happened in the past the Park Service and other agencies have become a dumping ground for open space.

However, often the only reason a landowner wants to sell is that he has been harassed and driven half-crazy trying to deal with the Park Service who generally fails to negotiate in good faith. After enough pressure and abusive tactics, almost any landowner can become a willing seller.

But the bottom line is that most landowners still do not wish to sell their land and GAO says that it is not necessary to buy them to achieve project objectives.

In the 1970's it was clear the Park Service and other agencies didn't bother to prioritize their acquisitions. In their view they were going to buy it all so who cared. The trust fund will simply restart that mindless attack on rural America. In a 1979 interview with the then Carter Administration Deputy Assistant Secretary of Interior David Hales and the author, Hales said, "If Congress puts a circle around it, we're going to buy it all."

NEIGHBORS FOLLOW THE MONEY

THE MORE MONEY THE FEDERAL AGENCIES GET, THE WORSE NEIGHBORS THEY BECOME.

Some Specific Case Studies from the 1970's

Lake Chelan National Recreation Area in Washington State—was created at the same time as the North Cascades National Park. Lake Chelan was made a NRA so that the small community of Stehekin could continue its pioneering subsistence way of life. It was necessary for the community to have access to wood, water and power to continue.

Lake Chelan offered a unique opportunity to provide the handicapped, elderly, and children a truly wild experience at the end of a 40 mile boat ride, the only regular method to get into Stehekin. There were only 1,600 acres of private land. According to the GAO, the Park Service purchased most of these, cutting off the ability of the community to provide for many visitors.

In fact, it has been said that by 1980 there were half as many beds available to disadvantaged recreationists as there had been in 1968 when the area was made a National Recreation Area. The Park Service had purchased some of the facilities and closed them down.

Lake Crescent in Olympic National Park—There had been more than 15 recreation resorts and destinations at Lake Crescent before the Park Service went on its land acquisition rampage. Now there are only two. How many handicapped, elderly and children will not get that fine experience they would have had with those facilities still operating?

The Buffalo National River in Arkansas—While preparing for a debate on the "Today" show on NBC in 1988 between myself and Denis Galvin of the Park Service, the NBC staffers found that the Park Service had started out with 1,103 landowners. The law clearly encouraged easements and did not intend to destroy the special cultural communities along the river. The culture was so unique it was featured in National Geographic. However, NBC said there were only eight landowners left in 1988, the 20th anniversary.

I served with former Parks Committee Chairman Roy Taylor on the National Park System Advisory Board and Council in 1982. He told me personally that Congress never intended for the people of the Buffalo to be destroyed.

St. Croix River in Minnesota—According to a 1978 report on rivers by GAO, they found the Park Service had acquired 21,000 acres when they were only supposed to acquire 1,000 acres of access sites according to the legislative intent.

St. Croix River—Another GAO report issued in 1979 found the Park Service had 2,100 acres under condemnation, which was 900 acres over the legal limit. The Park Service agreed but said that when they concluded the condemnation trials on people enough to reach the limit, the rest would receive scenic easements.

St. Croix River—Park Service was found guilty by the Justice Department of using project influence to pay landowners less than fair market value. Justice planned to make the agency go back and re-appraise the land and pay for what it had taken illegally. American Land Rights had to pressure the Justice Department to follow through.

St. Croix River—Park Service is now over its legal limit for using condemnation to buy fee title. They are now threatening landowners with excessively restrictive public access easements that only leave the landowner with the right to pay taxes and liability for personal injury.

St. Croix River—Ironically, one of the best examples of the use of easements was not by the Park Service. The Kettle River is a tributary under the responsibility of the State of Minnesota. The State purchased land protection in the form of easements for a fraction of the average cost paid by the Park Service in adjacent areas.

Boundary Waters Canoe Area, Minnesota—The Forest Service used LWCF funds to buy up and remove many resorts throughout the whole region of Minnesota. The result was not more recreation but recreation transferred to the young and healthy at the expense of the elderly, handicapped and children. There was a massive loss of access to traditional hunting and fishing areas further reducing broad-based family recreation.

Voyageurs National Park, Minnesota—The Park Service admitted in a 1979 GAO report that they had acquired enough land for the park from the timber companies and did not need to acquire all the private landholdings that dotted this sparsely populated area. The agency went on to acquire the inholders.

Fire Island National Seashore in New York—The Park Service was found guilty by the GAO in a 1981 report of acquiring an expensive home completely surrounded by other homes and not available for any form of public recreation. The Park Service justified its condemnation simply because the landowner had built his deck a little

too large and had received a zoning variance from the local town. The cost to the taxpayer was $100,000 for nothing.

C & O Canal in Maryland—The Park Service threatened all landowners with condemnation in the years around 1974. Even though they were required to offer landowners a life tenancy under the 1969 Uniform Relocation Act, the agency failed to provide each landowner notice of his rights because park officials wanted to limit any use and occupancy reservations to 25 years. The result is that now the landowners are fighting to get what was fairly theirs. Their Congressman, Roscoe Bartlett, has worked tirelessly to try to save the former landowners from Park Service eviction.

Mt. Rogers National Recreation Area in Southwest Virginia—A Forest Service area created in 1966. Congress had specified that the agency should acquire 39,500 acres, 40 percent of them in fee title that would have allowed the communities to stay. When questioned by congressional investigators and the author in 1979 about how many acres they had purchased in fee and how many easements, they responded that they had purchased over 26,000 acres in fee and no easements. The agency thought Congress didn't really mean what they said in the law. They viewed it as just a suggestion. It took a surprising amount of hard work by former Congressman Bill Wampler of Virginia to stop a massive new round of condemnation actions planned by the Forest Service.

Yosemite National Park in California—76 year old James Downey, a survivor of the 1906 San Francisco Earthquake, was threatened with condemnation in 1971 because he wanted to add a bathroom. He had no tub and had a double size septic tank and there was a covered breezeway under which the bathroom was to be built. There would be no new land coverage. The Park Service said what he was doing was an incompatible act and he would be condemned. They came back to him 2 weeks later after realizing their political insensitivity and said that if he would sell them his home, they would lease it back to him and then it would be OK to build his bathroom. Was the goal to stop the bathroom or buy the house?

Yosemite National Park—Harold Tischmacher's home burned down in December 1977. When he tried to rebuild it on the same foundation, the Park Service started condemnation proceedings because they said it was an incompatible act. He was saved by congressional intervention by Congressman Bernie Sisk (D-CA).

Foresta Fire, Yosemite National Park—In the late 1980's a fire got out of control in Yosemite National Park, roared up a canyon and wiped out the entire village of Foresta, about 80 homes. Park Service Superintendent Michael Findley had turned down help from the Forest Service and the State forestry service. After the fire, Findley requested that Congress give him immediate permission to condemn all the home sites because he could buy them cheaply since fire insurance would pay for the lost houses. When he was denied, he then set up as many roadblocks as possible to prevent the landowners from rebuilding, thereby forcing some to sell.

Unfortunately these cases are just the tip of the iceberg. Hundreds and perhaps thousands more have not been recorded. Investigators can find these kinds of stories at nearly every park or other special designation Federal area.

NO LAW TO PREVENT THESE ABUSES HAS BEEN PASSED

In the 1980's condemnations went down because the Reagan Administration opposed the use of this tool wherever possible. Offshore oil and gas money was reassigned to other social priorities by sending it directly to the treasury.

There Were Abuses in the 1980's

Grand Teton National Park in Wyoming—In an important national case a landowner had been trying to sell his 160 acres to the Park Service for 10 years. They've had the money. The problem was the bad faith negotiations extending all the way up the highest levels of Park Service management. The landowner finally had to threaten to subdivide his land in order to get them to make the purchase. The landowner did not want to subdivide and had been a good steward.

The agency condemned him. During the next 5 years this case took, the landowner offered to settle with the Park Service and it was agreed to right up to the Directors level. William Mott overturned the agreement for $1.8 million. The case then went to trial and ultimately cost the government over $3.2 million, far more than the agreed upon settlement. The judge was not complimentary to the bad faith negotiating by the Park Service. To make the case more bizarre, this piece of land was the highest priority acquisition for the Park Service in the country and they still could not manage to negotiate in good faith.

Santa Monica Mountains NRA in California—In the Murphy Duane case the landowner spent years going through all the vast permitting process and Coastal Commission approval to get to the point were he could build his dream home. The Park

Service strategy was to let him go. Only when he had spent thousands of dollars and man-hours to get local approval, did they say they were going to condemn his land. Intervention by Members of Congress stopped this abusive example.

Chesboro Canyon, Santa Monica Mountains NRA in California—The Park Service had enough money to purchase this Trust For Public Land Property for $8 million leaving hundreds of small landowners in another area of the NRA laying helpless and strangling. This is the exact kind of case that gives the impression that lots of landowners want to sell and that there is the need for H.R. 701 because there isn't enough money.

The plain fact is that if the Park Service had used its money wisely to buy hardships and willing sellers they knew existed, there would be no cry for more money. It was lobbying by the Trust For Public Land that allowed the $8 million to go for property the Park Service did not need to purchase thereby preventing the truly needy landowners from being paid.

Golden Gate National Recreation Area, Sweeney Ridge in California—The Trust For Public Land acquired an option on this property for $8.5 million. They then negotiated a sale to the Park Service for $9.6 million. The Park Service really did not want to buy the property at all. Both the Carter and Reagan Administrations agreed that the land was not of park quality and should not be purchased.

However, as is often the case with large land trusts, TPL orchestrated a political campaign and forced a political confrontation. They obtained appraisals to show that the land was valued at anywhere from $21 million to $24 million. The landowner, part of a large oil company, hoped to obtain a large tax deduction. Our investigation showed the land worth from $7 to $10 million.

Interior Secretary Bill Clark ultimately negotiated a sale near the $8.5 figure, due in part to our campaign against this unfortunate use of land acquisition funds. The figure was 8 percent of the entire land acquisition budget for the Park Service. Many other deserving landowners were left out because of this misuse of money. The problem is not that there wasn't enough money, but that the money was spent unwisely.

Appalachian Trail, Hanover, New Hampshire—The Park Service, working closely with the Dartmouth Outing Club, attempted to use LWCF funds to buy a greenway around Dartmouth College. They did this by moving the Appalachian Trail over to make it go through the middle of farmlands rather than along the fence lines as they were supposed to do and using a 1000 foot corridor to build their impact. They were found to be lying to Washington officials about their activities when called in to explain and ultimately had to move the trail back to the fence line and share the impact among adjacent owners. They were forced to use easements even though they tried to avoid using them. Only American Land Rights intervention saved their lands.

Appalachian Trail, Sheffield, Massachusetts—Park Service ignored the Land Protection Planning Process and ran the trail through town without consulting local officials, holding hearings or meetings or producing a land protection plan for the area that had been shown to either local landowners or officials. In fact, the Park Service had deliberately rerouted the trail at the request of the green groups to run it through the land that was planned to be used for a high tech, low impact recycling plant the greens wanted to stop. The Appalachian Trail has often been used as a weapon. Park Service officials repeated this kind of abuse over and over along the Appalachian Trail.

As in the earlier examples, this is the tip of the iceberg. When there is little oversight there is no reason for the agency to even attempt to obey the law. And they end up spending billions of dollars that do not have to be spent.

How About the 1990's? The Abuses Continued

Sleeping Bear Dunes National Lake Shore in Michigan—Riverside Canoes owned by Kathy and Tom Stocklen has been serving the public well for many years. Even the Park Service admitted they ran a good clean recreation business. But they would not sign over an easement type contract to the Park Service without compensation. The Park Service had already purchased two other canoe liveries and a campground either in condemnation or under threat of condemnation.

Finally, in 1990, the Park Service condemned the Stocklens. After several meetings with Park Service officials in Washington, no one at the agency could justify the condemnation, yet it went forward none the less. Finally, in 1992 just before the election, American Land Rights planned a huge demonstration in front of the Interior Building in Washington, DC. The Interior Department forced a settlement that gave the Stocklens back their land and compensated them for their attorney's fees prior to the demonstration.

Sleeping Bear was originally set up as a National Recreation Area. That is what a National Lakeshore is. It is tough to have full access to recreation when the managing agency buys out all the services providing certain types of recreation.

Moosehorn Wildlife Refuge in Maine—The FWS wanted to expand the refuge. They promised the local people they would only buy from willing sellers. The others relaxed. After the willing sellers had been purchased, the agency came back, denied they had ever said they would only buy from willing sellers, and began threatening condemnation. This is a pattern that repeats itself over and over again.

Saddleback Mountain Ski Area in Maine—Time after time, for over 20 years, the family that owns Saddleback has tried to work out a settlement of the route for the Appalachian Trail so that they could modernize and complete their ski area. Bad faith followed by bad faith by the Park Service in negotiations continues to this day. In fact, Saddleback recently offered the Park Service twice the land they could condemn under law just to settle the matter. Yet Saddleback sits twisting in the wind. The losers are the family, the community that loses jobs and $40 million of much needed economic activity per year for the region. The recreation ski community loses access to what would become one of the finest ski areas in America. The greens want new National Parks in Maine. It is hard to imagine why Maine or Congress would allow the Park Service to take over 5 to 10 million more acres in Maine when they cannot seem to solve problems and get along on a simple trail.

Little River Canyon National Preserve in Alabama—Here is an example of pure politics at work. The former Congressman from the area essentially told the Park Service to find him a park in his district. He apparently needed another monument. Fortunately, the agency found the Little River Canyon, which we consider of national significance. The State of Alabama and the Alabama Power Company owned it. As usual, the Park Service wanted much more. They tried to include the homes and farms of over 500 nearby landowners. American Land Rights helped fight the proposal, which ultimately was settled by Congress using just the State and power company land. The cost to the Park Service was minimal. It was totally unnecessary to include the 500 landowners. This kind of expansionist process that is embedded in the Park Service culture raises the cost of parks and hurts the taxpayer.

CAN IT HAPPEN AGAIN?

H.R. 701 Makes It Appear Impossible To Avoid!

Congress has passed no law that would prevent a return to the terrible days of the 1970's. The only difference is money. A simple change in policy by the Interior Department or less enforcement of the present policy that already falls short is all it would take. H.R. 701 will bring on a nightmare to rural communities across America.

A SUMMARY

The Problem

While H.R. 701 starts out more modestly, it will ultimately and inevitably increase to over $1 billion per year and probably more with modest additions each election cycle. That is not counting the likely possibility of a compromise with the more aggressive bills proposed by others. Once the Trust Fund is set up, the gradual expansion process is inevitable. There will be no going back. The cow will be out of the barn and down the road. Just like the Endangered Species Act, Congress will be cowed into allowing a law that hurts people to continue to hurt people.

Why should the Park Service, Forest Service or Fish and Wildlife Service be given a new entitlement by this Congress which gives those agencies a higher priority for funding than the Defense Department, education, aids research, and many other important issues. Every program should have to compete for appropriations. No more entitlements.

No private property will be safe with the funds from H.R. 701 available. Gradually, over time, all inholder families will be wiped out. Special Interest Groups will seek to create new congressionally designated lands to apply their newfound largess. As was said about former Congressman Phil Burton, "if the only tool he had was a hammer, everything he saw would look like a nail." With H.R. 701, everything will begin to look endangered to certain special interest groups and in need of Federal purchase.

How much is enough? Is it the policy of this Congress to buy up all America? There should be a no net loss of private land policy in America so that any new acquisitions are accompanied by a corresponding sale of government lands.

What is the end game? Many Members of Congress keep asking how America is going to extract itself from Kosovo and the Balkans. We would ask how Congress

would be able to shut off this new unappropriated, dedicated and off-budget trust fund entitlement once it is started. The experience of the past says you will be unable to do so. The end result for anyone who cares to look beyond the years of his own term is obvious. The solution is so much bigger than the problem that the solution becomes the problem. Land acquisition will overwhelm rural America.

There is little oversight of land acquisition now. There will be virtually none if this bill passes.

Why are inholder families targeted for acquisition and removal? Senator Orrin Hatch once referred to this process as "cultural genocide." Why cannot Federal areas be managed with families and communities still there? Why this hysterical rush to wipe out this cultural resource? Hundreds of small communities in existing Federal areas will be wiped off the map.

Land acquisition has always been used as a weapon to regulate and control private landowners. With billions of dollars to spend in a dependable and continuing stream, Federal agencies will be able to threaten landowners and control their activities. The reach of H.R. 701 into the very underpinnings of our Republic is remarkable.

Land acquisition destroys the culture and history of the US, often driving out old families. The Park Service is essentially the curator of our nations history and culture. Yet, Park Service practice in the past has been to buy out and destroy much or our cultural heritage.

Special Interest Groups will seek to designate hundreds of areas of private land as new government reservations. It will never stop. Just look at their current attempt to convert the 26 million-acre Northern Forests of Maine, New Hampshire, Vermont and New York into new Federal parks, refuges and other reservations of various kinds. Even the bill language of H.R. 701 appears to encourage this massive government sponsored population relocation plan.

Billions of dollars of private land will be taken off the tax rolls, forcing local taxes up. The taxes for those people who are not acquired will go up forcing some to sell, others not to invest and generally place a negative push against community development.

The basic tax base of many jurisdictions will be damaged or destroyed. It is true that H.R. 701 will provide money to the States, which they can choose to build swimming pools and other recreation alternatives. But H.R. 701 also funds the purchase of land by the State and Federal Government which ultimately and permanently weakens that community or jurisdictions ability to provide basic services or even maintain those same swimming pools.

Reports over the past 20 years by the General Accounting Office document an ever increasing trend of poorly maintained National Parks. From an estimate of $2 billion in maintenance backlog in 1981, the estimate by some seems to indicate that the backlog may approach $10 billion or more. Does it make sense for this country to buy more land when it cannot take care of what it already owns?

The Payments In-Lieu of Tax Program, PILT, has never been fully funding by Congress. Local communities don't get near enough money to replace the tax revenue they lost to Federal land acquisition. What is worse, PILT is essentially a "snapshot" concept where future payments are based on the value of land as of the date of acquisition. Thus a county that must meet the needs of 1999 gets payments based on 1976 values for example.

H.R. 701 will fund the buying out of new mining ventures, a vast array of the timber supply and ranching operations all over America. Thousands of jobs will be lost and with them a tremendous loss in economic opportunity and vitality. Rural communities don't take much economic upheaval to permanently damage the economic ecosystem.

Park Service Is Being Damaged

Unfortunately, Cuyahoga Valley is not an isolated example of how our Park Service areas are being managed. It is rather common place. Yet Congress has largely failed to examine the abuses discussed in this important film or how they could be corrected. The loss is to the Park Service. Because Congress failed to provide proper oversight, the Park Service feels it is immune from criticism. People who don't have to compete generally fail to be the best they can be. Congress, the Administration and yes, even the environmental groups, are cheating themselves and the American public out of a better Park Service.

Conservation and Reinvestment Act Will Buy Land and Destroy People

Inholders are the targets of H.R. 701. They are the families in communities that will be removed at will by the National Park Service and other Federal agencies who will no longer be constrained to attempt to be good neighbors because they

don't have enough money. If they cannot condemn people, they will simply threaten them, harass them, cutoff their access, cutoff Federal loans and grants and disaster relief and eventually drive them out. It's easy. It just takes a little more time.

The Conservation and Reinvestment Act (H.R. 701) will make victims out of people who are discriminated against because of where they live. These people will be rewarded for taking care or their land by having it taken from them.

Condemnation is a terrible tool often abused in its use in the past by the Park Service and Forest Service. Only limited funds have kept it under control. It is vital that any legislation adding financial strength to the Land and Water Conservation Fund also carry with it the restraints necessary to monitor and control that strength. We would be glad if H.R. 701 ultimately applies funds only to willing sellers but find the likelihood of that happening not very high. Even if willing seller passes this Congress, it will be easy to add condemnation back in next Congress. It's the Trust Fund, the money that does the damage.

In the near term, the Fish and Wildlife Service may be the most dangerous Federal agency. They are the only agency that can set up a Federal area without authorization by Congress. H.R. 701 says that money will only go to areas designated by Congress. It will be a simple matter for the Fish and Wildlife Service to set up a new refuge, then go for congressional designation. The FWS has such a huge constituency behind it that Members of Congress are afraid to put any real oversight into this agency or its abuses. H.R. 701 will only make matters worse.

Millions of Acres Inside National Forests Will Now Be New Targets Of Land Acquisition

Perhaps the most amazing aspect of H.R. 701 is that it will make tens of thousands of landowners with millions of acres of private land inside National Forests almost entirely new targets of land acquisition. They don't even know it is coming. They have no experience with land acquisition because the Forest Service has never focused on land acquisition other than specially designated areas like National Recreation Areas and Wild and Scenic Rivers. And there hasn't been the money. Now there will be a massive attempt to consolidate all the checkerboarded private lands and inholdings in the National Forests. Hundreds of small, unincorporated communities will find that if H.R. 701 passes, life in the National Forests will be changed forever.

Members of Congress with National Forests in their districts ought to hold a few hearings where they explain clearly to their constituents that they are supporting a bill that would target these people. You would see a huge uprising. As of now, the potential victims have no idea of the impending danger. Who do you think they'll blame when they figure it out? It will certainly be their Congressman who failed to tell them. Then he'll spend the rest of his career being a management consultant trying to mitigate the damage and hold off the Forest Service.

Hunters and other Sportsmen Are In For A Surprise

Hunters and other sportsmen who count on private lands intermingled with Federal land as their access to those lands that are often closed because they're designated as Wilderness will find their favorite hunting and fishing spots closed as the government targets these areas for acquisition to eliminate the access.

Some sportsmen's organizations have recommended buying out the ranchers and farmers around the forests and the parks to protect the winter range for their hunting targets. We support hunting. But some sportsmen seem to think that those farms and ranches will supply the same level and quality of forage when the farmer or rancher is no longer their. It is the working farm or ranch that provides the quality winter range. Sometimes the farmer or rancher is not happy about it because he is actually subsidizing the government and the hunters with his private property. But the fact is that these farms and ranches provide far more in winter range than they would if land acquisition cleared out the occupants.

Trails Will Become the New Battlegrounds

Congress is creating a number of new trails across the nation. They are trying to make sure there will not be massive land acquisition. But like night follows day, the Appalachian Trail will be the model.

First, each new trail is a model of cooperation with landowners. There are no threats. Deals are struck to run the trail across the land of willing participants. Eventually this arrangement gets too cumbersome so the trail society (like the Appalachian Trail Conference and all its local groups) lobby Congress to add land acquisition. Gradually the power of the managing agency is ratcheted up as the lobbying intensifies. Because a trail is a long string of land, the trail clubs have the power of many Congressional delegations supporting them while the poor landowner only has one Congressman and two Senators and virtually no chance to fight back.

The result is generations of anger and frustration as landowner after landowner loses his land. Examples along the Appalachian Trail are numerous.

Another problem with trail management is that the support groups or clubs like the Appalachian Trail Conference largely run the agency in charge of the trail. In the case of most people who manage parks, they are routinely rotated from park to park. But in a few cases they develop fiefdoms and spend most of their careers in one place. The current management of the Appalachian Trail is one example. The current project manager has been at that one location for over 20 years. The Appalachian Trail Conference wants consistent power. They constantly lobby to keep "their" person in charge. The result is bad management and political nest building that damages the Park Service and strains relations with local governments and others who must deal with trail management.

H.R. 701 Will Help Create a Slush Fund Subsidy or Entitlement

Certain powerful special interest groups have lobbied to set up their own single-use entitlement program, the Conservation and Reinvestment Act. It is curious that under the cover of the "word-tool" called "recreation" these groups actually support legislation such as H.R. 701 which is anti-recreation. At least for the broad spectrum of the American public families; children, handicapped and the elderly are largely locked out of areas created with the Land and Water Conservation Fund. Instead these areas are set aside for the privileged few that are young and healthy enough to gain access and enjoy them.

Why an entitlement or subsidy? Should we be setting up special interest entitlements for every segment of society? Shouldn't resource preservation and limited-use recreation have to stand in line with everyone else during the budget process? Shouldn't wilderness and parks have to compete with other important social priorities like the Defense Department, education, AIDS research, childcare, and children's programs.

Why should the environmental groups get a special deal? They have become the privileged class. The Sierra Club advertises that the median income of its members is well in excess of $60,000 yet it joins other environmental groups equally as wealthy standing in front of the line to the door to the Federal treasury. And they do it with tax-exempt dollars too. How many subsidies would they like?

THE LAND TRUSTS LEADING OR FOLLOWING?

Who is Setting the Priorities?

It is very clear that the Nature Conservancy, Trust for Public Land, Conservation Fund and other giant trusts are essentially taking over the role of deciding where our new national parks and other conservation areas will be. They are setting our future conservation policy instead of Congress. This seems to us to be a very dangerous course of action.

Already the land trusts are buying huge amounts of land in the Northern Forests of Maine, New Hampshire, Vermont and New York in what appears to be a plan to render moot what Congress thinks or plans. The land trusts would not do this if they didn't think there was a very good chance they would eventually be reimbursed by the Federal Government for their efforts. Most of the land they purchase is eventually transferred in some way to the Federal agencies.

Local officials in New England cannot go to bed at night knowing they will still have a tax base in their town or county the next morning. These land trusts are essentially deciding who lives and who dies from a community standpoint. The potential for corrupting the system and the Federal agencies is tremendous. The land trusts stand to make huge profits as they often do from sales to the government. Yet they are deciding where our next parks are coming from. Congress needs to visit this issue and make some decisions. Who is in charge? We believe the land trusts need to be put on notice that just because they buy something, there is no obligation to Congress to reimburse them. Further, as we have said elsewhere in this testimony, no land trust should be able to sell land to the government that does not make their books available for review by the General Accounting Office and Congress.

Congress needs to decide just who is in charge. One Nature Conservancy official said several years ago that no developer or community should make plans about undeveloped land without going to the Nature Conservancy first. Their reach and their computer data base are so large that they have that kind of power. In fact, the Nature Conservancy gave parts of its data base to each State along with an operator so that hidden in all State land agencies is a computer data base with virtually single piece of private land listed and categorized. This data base would never have passed the State legislature in each State but the Nature Conservancy sneaked it

in through the back door. If that sounds scary, it is. It is clear that Congress needs to take charge of this situation. The self initiating park manufacturing system now in place with the large land trusts offers too much money, profits and opportunities for corruption without some careful regulation.

NATIONAL NATURAL LANDMARKS

The Secret Park Service Land Grab

In the early 1960's Interior Secretary Stuart Udall initiated a program whereby the National Park Service would reward landowners for being good stewards. If they met certain criteria, their land would be nominated as a National Natural Landmark. They would receive recognition and awards as good stewards. Interior Department and Park Service policy said the government had to ask permission of the landowner before moving forward so things seemed reasonable.

Somewhere in the 1970's the Park Service got impatient. They stopped telling the landowners they were nominating and began quietly designating their land as National Natural Landmarks without telling them. Hundreds were designated and several thousand were nominated. Landowners only found out they had a problem when they went to do something with their property and were told by local and State authorities that they couldn't because their land was of "national significance."

When the program began to unravel, no one was prepared for the scope. One landmark nomination was for 10,000,000 acres. Huge amounts of private and public land were included. The National Parks and Conservation Association in their massive 1988 plan for park expansion called these areas "ladies in waiting."

In the early 1990's the story broke courtesy of American Land Rights and a network of other private property advocacy groups. Various newspaper organizations and the Interior Department Inspector General investigated the Park Service. The agency was found to be guilty of taking control of private land or putting a legal cloud on that private land without telling the landowners. The National Natural Landmarks program was put in limbo. It just sat there for a number of years.

Just recently, the Clinton Administration has restarted the program. They have a cute way of saying will never going to let go of those properties. Most of their announcement said they were backing off but if you read between the lines, the landowners are going to have one heck of a time getting released. So much for stewardship and a partnership with the Park Service. The landowners continue to have a cloud on their title and fear in their hearts. The Park Service knows it stole something and got away with it.

LAND AND WATER CONSERVATION FUN

No Money For Maintenance

The General Accounting Office, the "non-partisan" investigative arm of Congress has released several reports over the past 20 years that say Park Service superintendents believe there is a shortfall in maintenance funding ranging in the billions of dollars. None of the money for Federal agencies from H.R. 701 can go for anything but buying land. Shouldn't we be able to take care of what we already own?

Parks Will Become Political Trading Stock

For those with short memories, the late Congressman Philip Burton used parks as a tool to achieve great political success in Congress. A billion dollar Trust Fund with a dedicated money source will allow all Members of Congress to create new parks and other reserves at will. They can say, "Let the trust pay for it." No one will be financially responsible . . . . except the taxpayer.

Actually, it was Burton who hosted a secret meeting in 1979 with key Congressmen and staff from both parties along with agency officials and land trust executives who first planned out how to set up a billion dollar land acquisition trust fund and remove Congressional oversight.

H.R. 701 will make parks the political trading stock of the 1990's. The Park Service will become the "Pork Service" as we head into the era of what the Washington Post referred to in 1980 as "one man one park." In the late 1970's the Park Service became a dumping ground for open space because they were used in the pork barrel trading process. The University of California Press has released an important book about the life of Phil Burton called A Rage For Justice by John Jacobs. This book rivals the Power Broker, Robert Moses and the Fall of New York, written in 1975 by Robert Caro. Both books document the use of parks as political trading stock to control the political playing field and Congress.

During my term on the National Park System Advisory Board, other members appointed by the previous Administration, may not have agreed with me on some issues. But they were almost united in feeling that the resources and the will of the Park Service were being diluted by areas not deserving of inclusion in the National Park System. They felt that the National Park System was being damaged by its use as a political tool by trading parks for votes.

Park Service Has Taken the Land of Over 115,000 Landowners Through 1995

Even though H.R. 701 says the LWCF will only buy from willing sellers, we believe it will eventually allow for the condemnation and destruction of landowners and small communities all across America. It may happen with amendments in other Congresses but eventually this unappropriated off budget trust fund will fund condemnation. More than 115,000 landowners have already lost their land to the Park Service alone since 1966 because of the Land and Water Conservation Fund, which will be amended by H.R. 701.

Lack of Congressional Oversight

The National Park Service and to a lessor extent other agencies, have been immune from Congressional oversight because they manage nice places. Parks are good in political terms and it is bad to appear to be against parks. The result is a runaway bureaucracy with little or no accountability. These land buying agencies are buffered by support groups who intimidate and overwhelm opposition.

Land Protection Planning Process

There has been a definite trend for the better. Mostly related to funding. One of the true success stories of the Reagan Administration was the Land Protection Planning Process. The fact that the planning process is largely still in place testifies to the common sense nature of the policy. Responding to the severe criticism by the General Accounting Office in previous years, the Interior Department published the Land Protection Regulations in 1982. And many in the Park Service and Fish and Wildlife Service have made an effort to make them work.

Land Protection Plans were supposed to help the Park Service and other Federal agencies obtain protection for more land at less cost. They were supposed to encourage the use of cost effective easements and other alternatives to fee acquisition. They were supposed to buy the least amount of an interest necessary to meet congressional objectives.

Unfortunately, lack of support from certain Members of Congress and the long held belief that we will buy everything anyway so why bother prioritizing has led the Park Service and other agencies to largely ignore the Land Protection Planning Process. H.R. 701 could be improved by including the 1982 Land Protection Planning Policy into the bill.

We should make it clear that even though we have suggested improvements to H.R. 701 in various places in this testimony, we do that only to help landowners should this bill be made into law. As long as it creates a Trust Fund, increases land acquisition funding and those funds do not have to go through the appropriations process each year; our opposition remains total, complete and unequivocal.

The East-West Conflict Over Parks

The East is overcrowded and needs more open space according to some. The West feels it has been abused by having too much land locked up. H.R. 701 may well be a response to calls for more parks in the East, but much of the damage will still be in the West. The West understands what condemnation, land acquisition and loss of tax base will do. In some cases, the West never was given the tax base in the first place. The East kept control by keeping the land in government ownership to restrict Western growth.

We hope Eastern Congressmen and Senators will be truthful with their citizens about what H.R. 701 means. Massive land acquisition of private lands, much of it in the Northern Forests of Maine, New Hampshire, Vermont and New York. Yet, the public wants parks near where they live. Ask them if they want their neighbor to lose his home as a price for making the park? Ask the urban resident if he is willing to pull the dollars out of his pocket to pay for the park? Don't extort the money from him without letting him understand the price he is paying.

Let's Be Honest, H.R. 701 Is A Billion Dollar Tax Increase

Let's be honest about the Land and Water Conservation Fund. Any money that is appropriated for the fund, or that comes from the sale of public assets and put in the fund, is public money. Money that comes from off-shore oil and gas sales would normally go into the treasury to reduce taxes. Under H.R. 701, it will automatically be siphoned off for special interest groups and land acquisition and the taxpayer will have to make up the money. Lets not kid the folks back home and

tell them they won't have to pay for all this land acquisition. They are paying for it all right . . . . only it's being done in a sneaky underhanded way.

H.R. 701 Says Only Willing Seller, But Congress May Decide Otherwise

H.R. 701 contains no oversight provisions. The numerous General Accounting Office reports listed above have criticized the Park Service in particular and other Federal agencies for buying more land than they are supposed to; creating projects with huge cost overruns; not prioritizing their land acquisition so that they buy land they don't need instead or lands intended by Congress; failure to use easements and other cost effective protection alternatives; and failure to pay attention to the needs of local communities, landowners, and local government.

Use of eminent domain or condemnation must be severely restrained if money is added to the Land and Water Conservation Fund. On the St. Croix River the Park service has exceeded its condemnation limit. It continued to threaten to condemn easements that include public access over a person's entire property instead of just river access as the law intended. Otherwise unwilling sellers have gladly sold willingly rather than have nearly all the value of their land taken leaving them with little resale value but the right to pay taxes.

Land acquisition money is used as a giant regulatory umbrella. The Niobrara River Wild and Scenic River had a provision that limited condemnation to 5 percent of the land. When asked by the author how they would use this limited condemnation power, the Park Service said they would hold back condemnation and threaten everyone with it to keep them from making unwanted developments to their property.

The agency pays little or no attention to the legislative history of areas managed by them. According to GAO, they are just as apt to buy land they don't need as land that is critical. They assume they will buy it all anyway so why plan. Therefore, many condemnations take place that wouldn't have if more easements and other alternatives were used.

A court will not examine the taking it is assumed that if it is for a "public purpose" then it is OK. The power comes with the power to govern. Courts only ask two questions. Does the agency have the money and the authority to spend it? They never ask if they have the authority to spend it on that land or at that project.

Therefore, the landowners cannot contest the taking. The Park Service uses condemnation as an abusive tool to intimidate. They know that the only thing that can stop them is congressional oversight and they have little to fear from that. Many landowners are squashed like bugs without a chance to fight back. Yes, they get paid. And sometimes they even get enough to replace what they had. But what is the price of land you don't want to sell?

The Reagan and Bush Administrations held down condemnations and funding for mass condemnation but even their Justice Department would not review the thousands of condemnations in process when they came into office. If the willing seller provision fails to survive, H.R. 701 will allow the Federal agencies to return to the wholesale condemnation era of the late 1960's and 1970's. According to a report to Senator Ted Stevens by the Justice Department released in 1979, of 21,000 condemnations in process nationwide by all Federal agencies that year, the Park service had over 10,000 of them. That number is skewed somewhat by the Big Cypress condemnations.

Despite the Willing Seller Willing Buyer provision in H.R. 701, we believe that any bill coming out of Congress will include condemnation. Declarations of Taking will increase if H.R. 701 passes. DT's, as they are called, are used by the Park Service as an abusive tool to intimidate and depress opposition to local land acquisition projects. They give the government immediate title to the property and can be used to force the landowner off the land in 90 days even if he has no other place to go. Small businesses and farmers have been especially hard hit by the use of this tool.

In the past, the congressional committees have often approved a DT without ever taking the care to ask local elected officials or landowners whether a DT is appropriate. Some are but most are not. The Resources Committee in the past was often counted on by the Park Service as an automatic sign-off to get a DT approved. It failed to investigate the facts. As a result the Park Service often gave Congress information that was not accurate. The Park Service did not have to tell the truth because it knew the Committee was not likely to check.

The Committee has often not fulfilled its oversight role. By passing H.R. 701, Congress would be placing a loaded gun in the hands of the Park Service. H.R. 701 should carry some very carefully crafted oversight provisions for the use of Declarations of Taking.

H.R. 701 will eliminate any motivation on the part of the Federal agencies and particularly the Park Service to use easements to protect land while saving money.

The GAO says that the Park Service objections to easements are more perceived than real. For example, on the St. Croix, (Kettle River Section) the State of Minnesota purchased hundreds of easements at a cost of 30 percent or less of fee title. On the St. Croix just a few miles away, the Park Service was condemning fee title costing far more money for the same kind of land. The difference in management is money. If they have enough money they don't have to negotiate. They take the easy way out. They don't have to be a good neighbor. They always threaten condemnation. They use condemnation. The use of a high percentage of easements would cut land acquisition costs by a minimum of 40 percent while saving valuable cultural communities. More land could be protected at less cost if Congress enforced the use of easements.

Public Law 91–646, the Uniform Relocation Act is supposed to protect landowners from overly aggressive bureaucracy. IT DOES NOT WORK. If H.R. 701 passes it will be turning loose powerful bureaucracies to prey on their own people. Money is the key. If the land acquisition agencies do not have quite enough money to do their job in the old way, they become creative and fiscally responsible. To some extent this has happened in recent years. Without very tight controls over land acquisition and the condemnation process, private land in rural America will face a grave threat at the hands of its government.

Multiple-use on Federal lands will be damaged by H.R. 701. Multiple-use lands will be converted into single purpose restricted areas where only a small minority of citizens can go. Congressmen and Senators are able to change multiple-use lands into parks now, but they must be responsible for huge costs associated with buying private lands in those areas. Mineral rights, grazing rights, water rights and other private interests must be paid for too.

If there is a billion dollar Trust Fund, Congressmen will simply have to say: "Let the trust PAY for the new Park." They will not have to take fiscal responsibility for their actions. H.R. 701 will lead to virtually no congressional oversight over land acquisition. H.R. 701 is not the final Trust Fund. It is a transition bill that amends the Land and Water Conservation Fund so that it has a dedicated source of funds that will eventually grow to $1 billion and more. The goal is to position the LWCF so that it will be removed from the congressional appropriations and oversight process. This would complete the plan laid out in June 1979 in the late Phil Burton's secret seminar where this whole process was planned. The goal of that meeting was "to get the Land and Water Conservation Fund out from under congressional oversight and give as much money as possible to land trusts" where there would be even less oversight.

Anyone who pays recreation or user fees on Federal land will eventually have to pay higher fees because of H.R. 701. Like night follows day. The environmental groups will use the excuse of paying for the Trust to prod Congress into raising user fees. Their goal, of course, is not really to raise money, but drive commodity production and other multiple-uses off the Federal lands.

H.R. 701 will eventually give the Park Service, Forest Service, Fish and Wildlife Service and Bureau or Land Management 200 percent, 300 percent and even 400 percent of the land acquisition funding that has been provided by Congress over the past 10 years. The threat to rural America is staggering.

If H.R. 701 passes we will end up with a $25 billion backlog in 10 years. The appetite of some in Congress, the Park Service, and the environmental groups is very big. Their eyes are bigger than their funding. Instead of the current $8 billion backlog as we have now (if you can believe the President's Commission on Americans Outdoors 10 years ago) you'll simply see a $25 billion backlog as Congress loads up the process with new ego-political parks. Remember, they no longer have to be accountable for costs because the "Trust will pay."

We will be mortgaging our children's future and setting impossible goals while guaranteeing to raise their taxes because LWCF funds that could have passed through to the general fund to help reduce the deficit will now be siphoned off.

It is suggested that we must take funds from an asset we are using up (off shore oil) to build another asset. There is some logic to that argument. Often, however, the Land and Water Conservation Fund is taking assets or their uses important to all Americans from them. We may buy land, but it is placed in a non-use category. Small communities are being destroyed and the local tax base damaged. H.R. 701 will remove millions of additional acres from the tax rolls throwing the burden of supporting necessary community services on other property owners. Often counties support the LWCF to pay for the swimming pool while giving up the tax base that could pay to keep up the swimming pool.

None of the money from H.R. 701 can be used by the Park Service, Fish and Wildlife Service or Forest Service for anything but buying land. No maintenance, no re-

habilitation, nothing else. Yet the backlog in maintenance grows bigger with each passing year.

It seems inconsistent for the environmental groups to be suggesting the sky is falling about the preservation of land when advocating huge land acquisition increases while at the same time resisting to the death any attempt to add maintenance and rehabilitation funding to the Land and Water Conservation Fund.

If Congress passes H.R. 701, it will send a message to the Federal agencies. Remove private uses and commodity production from Federal lands. The logic is that if the government is spending so much money to buy private land for recreation and preservation then of course Congress must mean to rid existing Federal land of permits, leases, and other private uses for the same reasons.

The President's Commission on Americans Outdoors recommended massive increases in land use controls. These will be paid for by the billion dollar Land Acquisition Trust Fund. Examples: 2,000 Wild and Scenic Rivers by the year 2000; a national network of greenways modeled after the 1,000 foot wide Appalachian Trail from Maine to Georgia; a nationwide "scenic byway" program placing half-mile viewshed or buffer zones on either side of secondary highways across America; expansive new wetland and shoreline controls; growth shaping controls; and many more costly red-tape regulations. Some of these proposals like the "scenic byways" have been put into place on Federal land in areas managed by the Forest Service. Also the wetland, shoreline and growth controls. So far the impact on private land from the "scenic byways" has been minimal. What happens when there is a billion dollar Trust Fund?

Where Will The Trust Funds Be Spent?

There is a whole list of programs and plans ready and waiting for the money from this new Trust Fund. The National Parks and Conservation Association 1988 Park Plan Hit List included 88 new national parks and additions of 10 million acres to 212 existing parks. 25 percent of the additions would come from private landowners. No one knows how much private land is in the 88 new areas. Conservative estimates in 1988 suggested this plan would have cost a minimum of $30 billion and could well be more than twice that.

The Wilderness Society and other groups have followed suit with the "Blueprint For The Environment" which sets out a huge agenda. Dozens of other groups have their own ideas how to spend the new slush fund.

What is more onerous though are the secret future park projects that exist within the Park Service. The Park Service has one called the National Natural Landmarks program. Never authorized by Congress, this back room project gets landowners to list their property by promising that it will not be purchased and that they do not list people against their will. It rewards them with special ceremonies and other ego gratification. On the surface, it sounds like a good program.

However, lots of evidence surfaced a few years back that in fact people's land is listed against their will without even telling them. Despite protests to the contrary, this program is really a plan for future additions to the National Park System. The NPCA calls them "Ladies in waiting". An Interior Department Inspector Generals investigation has clearly shown that the Park Service grew impatient waiting for landowners to give their permission and simply began bypassing them, designating millions acres of private land as landmarks without even telling the landowner they were under consideration. Land Trusts like the Nature Conservancy eagerly participated in this secret process in places such as Waas Island and Beals, Maine. Many more acres of Federal lands were planned to be designated with the result that other uses would eventually be removed.

The Biosphere Reserve and World Heritage Site program also appears to be tied into a program for expanding the parks while locking out the people. The first tangible evidence that these programs would be used in this manner was by the Superintendent of Yellowstone National Park, Michael Findley again, when he called in a United Nations inspection team several years ago to examine the New World Mine and its supposed threat to Yellowstone. The U.N. team recommended a huge buffer zone around Yellowstone and was the moral authority upon which the Clinton Administration based its successful efforts to shut down the project buy using LWCF funds to buy it out thereby depriving Montana of much needed jobs. It is our view that any threat to Yellowstone was largely successful propaganda.

The 26 million-acre Northern Forests of Maine, New Hampshire, Vermont and New York are the primary initial target of the green groups for much of the new Trust Fund. There are timber companies going through an economic transition and seem willing to again sell Manhattan Island to the Indians for beads, foregoing the economic future of the area. Vast numbers of communities and thousands of jobs lay in the balance.

The billion dollar Trust Fund was originally recommended by the President's Commission on Americans Outdoors (PCAO). The General Accounting Office released a report (RCED–88–86) in 1988 concluding that the PCAO violated the Federal Advisory Committee Act by writing its recommendations in closed, secret meetings excluding the public and press. Lamar Alexander was the Chairman of that Commission and Victor Ashe was the Executive Director.

According to the President's Commission on Americans Outdoors, visitation to Park Service areas close to where people live has increased modestly. However, visits to parks and Wilderness areas away from population centers are moving steadily downward as the nations population ages. Yet the PCAO, NPCA, and other plans include massive land acquisition in areas away from where the trends say people now generally go.

Some of the money from H.R. 701 will undoubtedly go to support national and local land trusts. There are very grave dangers in that. There are some large land trusts like the Nature Conservancy, Trust for Public Land, The Conservation Fund and others that portend to save the government money but there are indications now that they may in fact increase the cost of acquisition. They are acting very much like tax-exempt real estate companies, which cost the government (taxpayer) much more, when they stand between the landowner and the government than if the government could deal direct with the landowner. It is likely when the dust clears that these land trusts have cost the taxpayer the purchase price plus large deductions for perceived donations using "special appraisers." In the end, the taxpayer could pay twice as much ore more.

In an investigation several years ago by GAO, they reported that they were not able to get the information necessary on the land trust in question because the trust would not supply the required financial records.

The Interior Department Inspector General was able to convict two real estate agents that were involved in a scheme to sell land to the Park Service at Santa Monica Mountains NRA at an inflated price through a land trust. The land trust was not convicted of any wrongdoing.

H.R. 701 should carry with it a requirement that any land trust who receives Land and Water Conservation Fund money should be required to make full financial disclosure of its financial records in order to qualify for participation in the LWCF.

Local land trusts are a good idea. They promote conservation and enthusiasm on the local level. If they get Federal money they will become extended arms of the land acquisition agencies. This condition exists to some extent now but will be greatly expanded if H.R. 701 passes. Even the managers of local land trusts won't recognize their organizations in a few years if they accept Federal money. One of the main ideas of local land trusts is to raise public awareness and build public involvement in local projects. That comes from fund raising. If these trusts are financed with Federal dollars through the Land and Water Conservation Fund, that local spirit will die.

Most of the Federal part of the over $8 billion spent by the Land and Water Conservation Fund since 1966 is not available for general public recreation. It has been locked up with people uses generally limited and sometimes eliminated altogether. Recreation is an excuse or a code word to develop public support for preservation projects when the real goal is the elimination of people. Someday a major event will bring this process of exclusion to the attention of the public. The results will be dramatic and tragic. Those who now have the power to swing the pendulum need to be careful not to swing it too far. It always comes back with equal force.

The LWCF presently does not have money in it unless Congress appropriates the funds first. Trust Fund proponents carry on the myth that the fund has money in it or that money is owed to it. Congress passed legislation authorizing $900 million per year for the fund in 1978. It only approached appropriating that figure in 1979. That was also the year the former Congressman Sid Yates committee suspended the Park Service condemnation authority because of all the abuses. Congress must appropriate money each year from the present source of funds, offshore oil and gas leasing money, or the money will pass through the fund to support the general government treasury and reduce your taxes. The greens and some Members of Congress who know better encourage the fiction that somehow $900 million per year has built up in the fund and now $8 billion is owed to the fund and that it doesn't cost the taxpayer.

H.R. 701 dedicates up to $1 billion per year from offshore gas and oil money to the Land and Water Conservation Fund, thus making it a Trust. The Trust Fund does not have to compete against other important national social priorities in the yearly budget process. Somehow, Trust Fund proponents think that the environmentalists and hunters need a special subsidy or entitlement to support their activi-

ties. Or perhaps they think they cannot compete in the budget process like everyone else and must receive special treatment.

If H.R. 701 passes, every special interest should insist on a dedicated Trust Fund for their own pet projects. Congress should consider doing away with the appropriations committees since they will no longer be needed.

H.R. 701 or the Land and Water Conservation Fund should not be used as a bargaining tool or trading stock to open the Arctic National Wildlife Refuge. While we support opening ANWAR, the funds from ANWAR should not be used to condemn land and destroy private property and communities in the rest of the country. We oppose making H.R. 701 part of other legislation involving ANWAR. It must stand alone and have to compete on its own merits and not be a result of election year vote trading. It would be appropriate to separate the LWCF from the current H.R. 701 so that Congress will not sell out private property rights as part of some goal to gain access to the Federal treasury by Coastal States or the Safari Club. We're not making a judgment here over whether that access for Coastal States is right or wrong. Slipping a billion dollar Trust Fund in the bill is wrong.

Park Service land acquisition has led to condemnation and removal of special cultural populations in small communities across America. H.R. 701 will fund the continuation of this process.

Over 115,000 landowners have lost their land to the Park Service alone since 1966 as a result or the Land and Water Conservation Fund. The impact on rural America has been destructive and tragic.

It is very important that field hearings be held around the country on H.R. 701. This bill is too important to have just a few carefully scripted hearings in selected States.

The Chairman of the old Interior and Insular Affairs Committee promised oversight hearings and a review of mistreatment of inholders in 1980. He failed to deliver on his promise.

H.R. 701 contains protection against condemnation if that provision passes Congress, a possibility we consider very unlikely. Whether or not condemnation is included in any final version of H.R. 701, the bill will do terrible social and cultural damage to rural communities across America. Willing seller, willing buyer is largely a myth. The government has ways to make you sell. It just takes the agencies 15 years to do what they can complete in 5 years with condemnation.

The conclusions of GAO report after GAO report confirm past abuses. Newspaper and magazine stories by the hundred have told the story. National television shows documenting the horror stories on public television and network news magazine shows add to the documentation. Purchase and relocation by the thousand. It is true . . . . terrible things have been done to the American people and their communities in the name of preservation.

HOW did this happen?

There are lots of little reasons, and TWO BIG REASONS.

First, our Constitution is written the way it is because the founding fathers knew that big government would always try to expand its power over those beneath it. It's why we have all those laws about unreasonable search and seizure. Big government, even big corporate government, always tried to get bigger and more powerful.

Second, for many reasons, most of them good, we have a huge and powerful movement for the conservation and preservation of our natural resources in this country. The American Land Rights Association believes in sensible conservation . . . . some of our volunteers helped found conservation organizations.

But this movement, this bureaucracy, is like all the rest. It believes in itself . . . and its goals . . . above anything else . . . including your rights and the rights of every American.

And they are very smart. They know that American politics and politicians depend upon organizations like the environmentalists for political support through their publications and for money . . . money at election time and money to expose them in a good light in their many and large publications and broadcasts of a "non-political" nature.

So they have power and influence. And they are dedicated. Regardless of what they sometimes say, the basic goal of the environmentalists is to "get people off the land." There are many quotes from the leaders of these groups to show that they really want to keep everyone out of as much of the Federal lands . . . our land . . . as they can.

One example is a 1991 statement by Brock Evans, then Vice President and Chief Lobbyist for the National Audubon Society. He was comparing the environmental groups (greens) campaign for Federal acquisition of 26 million acres of the Northern Forests of New England to his successful campaign to shut down the forests and

rural communities of the Northwest, using the spotted owl as the tool. He told a group of environmentalist leaders at an activist workshop at Tufts University:

"This will be an even bigger campaign in the next few years than the Ancient Forest Campaign we're just going through in the Pacific Northwest . . . I don't agree that we can't get it all back [sic] . . . I don't agree that it shouldn't all be in the public domain."

And they don't give a rat for your rights . . . or my rights. They get most of their money from people who don't depend on the land . . . who pay their dues and lend their names to "good causes," because its the "right thing to do."

These good people, as many Members of Congress, never think about the human rights being trampled every day in the name of their good cause.

'So what can I do about it?" you ask. That's what I thought when it happened to me. I have a cabin-inholding in Yosemite that the Park Service decided to take. My family had been there for a long time, and I didn't believe in simply being tossed out because some bureaucrat said I was in the way.

So a group of us started the National Park Inholders Association which became the American Land Rights Association. And it has become my life.

God has given me reasonably good health, good friends and employees, and dozens, even hundreds of intelligent hard-working volunteers, decent people to help me.

And we have made a difference.

Before we were here, the National Park Service had seized nearly 100,000 pieces of property from American Citizens since 1966. Thousands of others . . . miners, stockmen, ranchers, farmers, cabin owners, landowners, recreationists, and other users of the Federal lands have been told they had to go . . . that they "didn't belong."

Thousands of people were being deprived of rights and property that had been assured by their government that they could stay. Families of good men and women had to pack their bags and leave. Why? For preservation. Never mind the promises that were made to create the new parks. Forget about the assurances that the new funding would not take their home. They had to go.

And so it goes . . . in hundreds of "preservation" areas across the country. Rare and beautiful cultures and lifestyles are broken up and destroyed. In America a culture must be 100 years old to be valued. The Park Service has committed "cultural genocide" or "cultural cleansing" over and over and Congress often has seemed not to care. But we fight on.

We can't say we have stopped the carnage every time. But we have stopped it, slowed it, made it more fair and made the bureaucrats think twice about doing it again, just about every time.

Park service bureaucrats talk in jargon that makes people feel stupid real stupid . . . and intimidated. They do that without maliciousness these are not bad people, but they are people. Even ranchers, miners, and truckers have jargon . . . we all do it . . . it's human.

But it does make it hard on ordinary citizens . . . and it does make the bureaucrats see the world in a special way. They come to see their actions as part of a huge complex operation of which they are only a part. To them, as to us, their job takes over their life.

Help us keep the system fair . . . help us protect the rights of rural Americans. Don't give the giant environmental industrial complex free access to the Federal treasury with an unappropriated trust fund. Why do they need a subsidy or entitlement?

Write strict protections for families and communities into H.R. 701 defeat this bill. Don't discriminate against certain groups of people because of where they live. Remember that the issue is not just a few people in one place, it is the freedom of us all.

We do what we do because we believe that this system, this country, is based on some remarkable ideas, principal among which is that individuals and individual rights are important. Our Constitution was designed to protect the individual against the overwhelming power of a huge government that would take away rights and property.

We are Americans who are willing to work for our belief that it is individuals. . . and individual rights. . . who make this country important. We must never allow the single-use people to make their world better at the expense of the rights of all Americans. That's what this country's about.

Please. . . we cannot afford to buy all the nice places in this country. Try making landowners into partners. . . not enemies. H.R. 701 will not help this country. . . it will destroy the fabric of its rural communities.

Suggestions to Improve H.R. 701

Often when legislation is introduced that has the potential to cause adverse and sometimes unintended consequences, we may make recommendations. In the case of H.R. 701, these suggestions to improve the bill should not be taken as ANY support for this bill. H.R. 701 is so dangerous that we are unalterably opposed to it. But in the off chance that it does pass, the suggestions below will at least mitigate to some degree some of the terrible damage this bill will cause.

1. The Land Protection Planning Policy of the Interior Department was created in 1982 and is still place and should be included in H.R. 701. While this is still the written policy of the Interior Department and Agriculture Departments, a good many of the regulations have been ignored. Also the Park Service, Fish and Wildlife Service and Forest Service implementing regulations should be included as amendments to H.R. 701.

The Land Protection Planning Policy for the first time got the agencies to create a Land Protection Plan in each park or management area. That plan set priorities for which parcels were of high priority and which were of a lessor priority. Before that, the agencies didn't bother, feeling that they would ultimately buy it all so who cared.

The Land Protection Plan also had each agency identify the least amount of interest in the land that needed to be purchased to meet the intent of Congress. In some cases fee acquisition was recommended while in others it was easements, purchase and sell back, memorandums of understanding, cooperative agreements and other less invasive agreements. Before Land Protection Plans, the agencies had just purchased in fee title with little thought to alternatives. This dramatically raised the cost of many projects by hundreds of millions of dollars. Congress should instruct the agency to buy the least expensive alternative that meets Congress' intent unless the landowner wishes to sell a higher interest.

The Land Protection Planning Policy also requires the agencies to hold public hearings (not workshops) so that local elected officials and landowners can be involved and know what is going on.

2. Another amendment to H.R. 701 should require that each Federal area be required to hold a public hearing once year on their Land Protection Plan, what they purchased during that year and what interests were acquired. That way the public and local officials can see if the agency is following their Land Protection Plan. This provision in the current policy is usually ignored by the agencies which is why making it part of H.R. 701 would increase its strength.

3. Another amendment should require that the agencies not buy land inside unincorporated and incorporated communities and seek ways to protect the local community and culture. Otherwise the agency checkerboards the community undermining its social function and tax base and ultimately destroys it.

4. The agency using Land and Water Conservation Fund (LWCF) money funds should be required to notify the local county of any acquisitions of developed property, either a home or business, at least 60 days before closing and be required to seek approval from the local county or other elected body. Notice should also be required of any acquisition of undeveloped land of over 100 acres. That way the county could monitor their tax base and object to the agency action in time to make a difference if they felt that economic damage was taking place.

5. H.R. 701 should be amended to require all acquisition funds to go through the appropriations process. There should be no entitlement. The existing $1,000,000 threshold protects larger landowners to some degree but ignores the needs of smaller landowners that constitute 99 percent of the land purchases. The bill should specify that there will be no net loss of private property. If the agency wants to buy private land, they should be required to identify land that will be sold to off-set the loss just like Congress does now in the budget process.

6. The LWCF should be amended to allow moneys to be used for maintenance and rehabilitation. Right now the Appropriations Committee has said that the four key Federal land agencies are $12 billion behind in maintenance funding. We should take care of what we have before buying more.

7. Another amendment should say that the agencies may not buy any land where the government already owns over 70 percent of the land and that they must get permission from the local county in order to buy land where the government owns a minimum of 20 percent of the private land. This way the local county can be involved in protecting its tax base and making sure there is enough private land to support basic economic services to the people who live within the county.

8. An Environmental Impact Statement amendment should be included in the LWCF to require an EIS for any area where the Federal Government is carrying out large scale land acquisition and the Federal Government already owns 40 percent of the land base.

9. Every landowner should be given a copy of a booklet with his or her rights. They should be guaranteed a life tenancy if they choose that option. At the present time the agencies do not always follow the Uniform Relocation Act (91–646) and often deny the landowner the option of staying on his property for 25 years or life. The agency goal, of course, is to get the landowner off the property as quickly as possible.

10. No LWCF funds should be allowed to buy mining properties with documented reserves. If the agencies are allowed to buy the mining properties the country is deprived of new wealth and possibly important strategic minerals. Where would the country be today if the Free World's only supply of Rare Earth in the California Desert had been purchased by the Park Service before it was developed? It was years before we learned how important these minerals were to saving energy and lowering the weight of electric motors and much more.

11. LWCF funds should go to the State and local governments with the restriction that they can only be used with willing sellers. As of now, H.R. 701 allows the States and local jurisdictions to use condemnation.

12. Any lands purchased with LWCF funds must remain open to hunting, fishing and trapping. The irony of H.R. 701 is that the exact people who are pushing the bill are people who stand to lose a great deal in the long run. You can't hunt where you can't go. For example, the millions of acres of Forest Service lands now checkerboarded with private land will become targets for land acquisition for the first time. Many hunters and fishermen use these lands now. In the long run, H.R. 701 will Federalize those lands.

13. The Payments In Lieu of Taxes (PILT) program should be amended into the LWCF so that the full PILT payments are made to local counties before any land acquisitions take place.

14. The Tauzin amendment to the California Desert bill should be added to the LWCF. This amendment was adopted by a large majority in the 103d Congress. It prohibited the Federal agencies from using environmental regulations such as the Endangered Species Act when appraising property for potential Federal acquisition.

15. The LWCF should be amended to lower the authorization to the historic level of appropriations, $200 to $300 million per year.

16. Another amendment should say that any lands purchased outside existing designated Wilderness with LWCF Funds may not be put into Wilderness in the future or put into any Wilderness Study category.

17. Land trusts that convey land to the Federal Government should be required in the LWCF Act to provide a complete accounting of how much the land cost and what kind of tax deductions were taken in the acquisition. That is the only way Congress can know what it is really spending on a piece of property. The land trusts should be limited to making no more than 10 percent profit on sales to the Federal agencies and that any purchases must fit into that agencies Land Protection Plan.

ALRA

Assorted reading opportunities: (Available on the ALRA WEB site at www.landrights.org)

A SOCIO-CULTURAL ASSESSMENT OF INHOLDERS ALONG THE APPALACHIAN TRAIL IN THE STATE OF NEW HAMPSHIRE by Kent Anderson. A report funded by the American Land Alliance located in Mountain View, California in 1983. Copies may be obtained through the American Land Rights Association, P. O. Box 400, Battle Ground, WA 98604. (360) 687–3087. FAX: (360) 687–2973.

PEOPLE OF THE BLUE RIDGE: A SOCIO-CULTURAL ASSESSMENT OF INHOLDERS ALONG THE BLUE RIDGE PARKWAY by Kent Anderson. A report funded by the Institute For Human Rights Research located in San Antonio, Texas in 1980. Copies may be obtained from the American Land Rights Association.

THE PEOPLE OF THE BUFFALO: A SOCIO-CULTURAL ASSESSMENT OF INHOLDERS ALONG THE BUFFALO NATIONAL RIVER by Kent Anderson. A report funded by the Institute for Human Rights Research in 1981.

A SOCIO-CULTUREAL ASSESSMENT OF INHOLDERS IN THE MOUNT ROGERS NATIONAL RECREATION AREA (US Forest Service) by Kent Anderson. A report funded by the Institute for Human Rights Research in 1980.

AN ASSESSMENT OF THE ADMINISTRATION AND DEVELOPMENT OF VOYAGEURS NATIONAL PARK by Donald D. Parmeter. Mr. Parmeter was Executive Director of the Citizens Committee on Voyageurs National Park under the State of Minnesota. Copies may be obtained from the Committee in International Falls, Minnesota.

NATIONAL PARK SERVICE LAND ACQUISITION HEARINGS, SUMMER 1978

These were the only real hearings ever held on land acquisition by the Park Service. Former Congressman Sidney Yates Appropriations Interior Subcommittee took away the authority of the Park Service to use condemnation until they held hear-

ings. The agency expected just a few people to show up but hundreds attended nationwide.

The hearings were held in Fresno, California; Seattle, Washington; Denver, Colorado; Atlanta, Georgia; and Washington, DC. Verbatim transcripts are available from the Park Service.

BOOKS

The Power Broker, Robert Moses and the Fall of New York. By Robert Caro. 1974, Vintage Press, New York. Originally published in 1974 by Alfred A. Knopf. Still in print. Winner of the Frances Parkman Prize and the Pulitzer Prize in 1975.

Wilderness Next Door by John Hart. Foreword by Cecil Andrus. 1979 Presido Press, San Rafael, California.

The Adirondack Rebellion by Anthony N. D'Elia. 1979 Onchiota Books, Glens Falls, New York.

The Taking by Joseph Gughemetti and Eugene Wheeler, 1981 Hidden House Publications, Palo Alto, California.

At The Eye Of The Storm, James Watt and the Environmentalists by Ron Arnold, 1982 Regnery Gateway, Chicago, Illinois.

Playing God In Yellowstone by Alston Chase, 1986 Harcourt Brace Javanovich, Orlando, Florida.

Wake Up America, They're Stealing Your National Parks by Don Hummel. 1987 Free Enterprise Press, Bellevue, Washington. Mr. Hummel was the former mayor of Tucson, Arizona, an Assistant Secretary in the Kennedy Administration and former concessionaire in Glacier National Park, Lassen National Park and Grand Canyon National Park.

Cades Cove, The Life and Death Of a Southern Appalachian Community by Durwood Dunn, 1988 University of Tennessee Press.

A Rage for Justice, The Passion and Politics of Phillip Burton, 1995, University of California, Berkeley and Los Angeles, California.

FILMS

"For The Good Of All", an episode of the Public Television "Frontline" series first aired on June 6, 1983. Copies are available.

"For All People, For All Time", a film by Mark and Dan Jury that documented land acquisition in the Cuyahoga Valley National Recreation Area in Ohio. Portions of this film were used by Public Television when they produced the "Frontline" episode above. Copies are available.

Wednesday, May 24, 2000.

TO: U.S. SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS.

RE: H.R. 701/S. 25: OUTER CONTINENTAL SHELF REVENUE SHARING LAND ACQUISITION TRUST PROPOSALS

VIEWS OF KEEP PRIVATE LANDS IN PRIVATE HANDS COALITION (CHUCK CUSHMAN, COORDINATOR)

The leading organization educating the public about the harm expected from enactment of H.R. 701/S. 25 is the Keep Private Lands in Private Hands Coalition. The individual with the greatest knowledge in the country about the problems with this bill is undoubtedly their coordinator, Chuck Cushman. Mr. Cushman has over 30 years experience representing landowners in federally managed areas. He founded the National Inholders Association and is now also Executive Director of the American Land Rights Association.

He prepared a superb history and analysis for the June 1999 House Resources Committee hearing on H.R. 701 in Salt Lake City. Not only was Mr. Cushman not allowed to testify, his testimony wasn't even printed in the hearing record! The proceedings were heavily slanted in favor of hearing instead the pleas of agencies and organizations that were to receive the largesse of funds to be distributed under the bill certainly self serving testimony of highly predicable and minimally informative content.

This suppression of an outstanding scholarly treatise on the subject of Federal Government land acquisition and accompanying destruction of communities and citizen abuse has deprived the Congress and the public of critical information needed to evaluate and improve the subject bills. Grave doubt is cast on the credibility of the process in the House when a hearing is slanted in this way.

I have faith that the Senate will do a much better job of thoughtful deliberation on such a fundamental matter as buying massive amounts of private land with off budget trust funds.

I ask that the attached testimony of Mr. Cushman be included in the printed record of your committee hearing.

Sincerely yours,

LEE ANN GERHART,
3818 Clay Products Road,
Anchorage Alaska 99517

STATEMENT OF RAY KREIG, ANCHORAGE ALASKA

My name is Ray Kreig. I have lived in Alaska since 1970 and I am an inholder in four places: Kantishna in Denali National Park; Millers Camp in Yukon Charley National Preserve; Three Saints Bay in Kodiak National Wildlife Refuge; and Treat on the Big Piney Creek National Scenic River in the Ozark National Forest, Arkansas. I am Chairman of the Kantishna Inholders Association and Chairman of the Arkansas Scenic Rivers Landowner Association. I testifying in an individual capacity.

I wish to bring to the attention of the Committee three recently released major studies critical to an understanding of the Conservation and Reinvestment Act (CARA) H.R. 701-S25.

I ask that they be included (in their entirety) in the official hearing record. Each item here includes quotes from the publication or summary provided by the authors:

NO. 1—HERITAGE FOUNDATION WHY CARA IS FISCALLY IRRESPONSIBLE AND A THREAT TO LOCAL LAND USE DECISIONS, BY GREGG VANHELMOND AND ANGELA ANTONELLI (HERITAGE BACKGROUNDER NO. 1370, MAY 9, 2000, 10 PAGES).

"The intention of H.R. 701—to improve land conservation and recreation in the United States—at first glance is noble, but in reality the bill represents little more than a pork-filled land grab by Federal and State land management and recreation agencies . . . Making CARA's proposed programs off-budget also violates the spirit of the budget resolution, incorporating accounting gimmicks to increase spending in fiscal year 2001 beyond what Members had agreed to spend . . . Congress would be dedicating money to CARA that it otherwise would have saved to shore up Social Security, reduce the debt, or give Americans a tax cut. CARA also represents a vast expansion of Federal and State roles in local land management decisions . . . Unlike the practice in many of the programs that CARA would replace, H.R. 701 would require the U.S. Department of the Interior to review and approve many of the plans the States submit for the use of the funds . . . Finally, CARA is inherently unfair because it empowers government at all levels and special interests to buy land, placing average Americans at a disadvantage."

NO. 2—STEWARDS OF THE RANGE FATAL FLAWS OF CARA, BY FRED KELLY GRANT (2000, 9 PAGES).

"Much has been said and written about the benefits of and the flaws in H.R. 701 (CARA). Its supporters have defended the bill against advocates of private property rights by claiming that the bill protects property rights while extending funding to Federal, State and local agencies to preserve the great openness remaining in our nation.

"The supporters have utilized summaries of the bill and its supposed benefits, and asked for support by the grassroots on faith that the supporter's claims are factual. But, if one reads the provisions of the bill—the provisions which will be binding Federal law if the bill passes—the fallacies of the supporting claims become evident.

"Because so much has been written, and because of the imminence of the vote on the bill, the attempt here is to relate the actual language of the bill as to limited specific issues regarding private property rights, the potential spread of Federal control over land, and the impact on other programs of importance to the grassroots. When the actual language and the potential impact of the bill is studied, it becomes apparent that H.R. 701 is the greatest threat to private property rights ever conceived in this country. "

NO. 3—POLITICAL ECONOMY RESEARCH CENTER FEDERAL ESTATE: IS BIGGER BETTER?, BY HOLLY LIPPKE FRETWELL (PUBLIC LANDS REPORT III, 2000, 24 PAGES).

"As Congress prepares to add more land to the Federal estate for conservation purposes, the condition of lands already under Federal control continues to decline. Current Federal land stewardship is doing more harm than good . . . . one-third of the land area of the United States is under Federal control. Acreage continues to be added at a rate of more than 800,000 acres per year and will rapidly increase

if the proposed legislation specifically for land acquisitions is passed. While Federal land ownership expands, funds for managing these new lands are not forthcoming . . . Any land manager whether working for a Federal agency or overseeing a private farm or ranch, knows that protecting resources requires management and that comes at a price. Merely placing land into Federal ownership without addressing its management needs in no way ensures conservation and can actually lead to greater degradation. . . To protect valuable Federal lands, managers must face economic realities rather than kowtowing to Congress for their budgets."

Thank you Mr. Chairman for providing this forum for examining CARA.

ATTACHMENTS

No. 1 Heritage Study—Adobe PDF file "bg—1370.pdf"
Also available at: http://WWW.Heritage.org/library/backgrounder/bg1370.html
No. 2 Stewards of the Range Study—WordPerfect file "CARA.Fatal—Flaws.wpd"
Also available at: http://www.stewardsoftherange.org/fatal—flaws.htm
No. 3 PERC Study—Adobe PDF file "pl3.pdf"
Also available at: http://www.PERC.ORG/pl3sum.htm

[Stewards of the Range, 2000]

FATAL FLAWS OF CARA

AN ANALYSIS OF THE CONSERVATION AND REINVESTMENT ACT OF 1999 AS PASSED BY THE HOUSE RESOURCES COMMITTEE

(By Fred Kelly Grant)

Much has been said and written about the benefits of and the flaws in H.R. 701 (CARA). Its supporters have defended the bill against advocates of private property rights by claiming that the bill protects property rights while extending funding to Federal, State and local agencies to preserve the great openness remaining in our nation.

The supporters have utilized summaries of the bill and its supposed benefits, and asked for support by the grassroots on faith that the supporter's claims are factual. But, if one reads the provisions of the bill—the provisions which will be binding Federal law if the bill passes—the fallacies of the supporting claims become evident.

Because so much has been written, and because of the imminence of the vote on the bill, the attempt here is to relate the actual language of the bill as to limited specific issues regarding private property rights, the potential spread of Federal control over land, and the impact on other programs of importance to the grassroots. When the actual language and the potential impact of the bill is studied, it becomes apparent that H.R. 701 is the greatest threat to private property rights ever conceived in this country.

I. THE CLAIM THAT THE BILL ADEQUATELY PROTECTS PRIVATE PROPERTY IS MISLEADING AT BEST

Supporters of the bill have claimed far and wide that there are provisions in this bill which protect private property rights from "takings" by the government. They have claimed that purchases would be made only from "willing sellers" and that there would be no authority extended to government to "condemn" private property for purposes under this act. They have also claimed that mere use of funds appropriated under the bill would not extend the regulatory authority of Federal agencies. These claims seem to have placated many Members of Congress who are otherwise staunch supporters of private property rights.

But the claims are simply not true. They are directly contradicted by the specific provisions within the bill.

A. The Claim that the bill does not authorize condemnation is incorrect. The bill does not protect against condemnation, thus does authorize, condemnation

Section 11 of the bill is entitled "Protection of Private Property Rights". Subsection (a) is entitled "Savings Clause" and it is this clause which many supporters refer to as the clause which protects private property from condemnation. That claim does not withstand even cursory review.

The subsection states that "Nothing in the Act shall authorize that private property be taken for public use, without just compensation as provided by the Fifth and Fourteenth amendments to the United States Constitution." If the subsection ended with the first clause, the supporters could justifiably defend their claim that no con-

demnations of land were authorized. If the subsection said only that there would be no taking of private property, then there would be no authority for condemnation.

But, the subsection does in fact contain the second clause "without just compensation". The combination of the two clauses precisely defines what a condemnation is in fact. The term "condemnation" is defined as the "process of taking private property for public use through the power of eminent domain. 'Just compensation' must be paid to owner for taking of such." Black's Law Dictionary, Sixth Edition.

The language of the subsection provides a text-book illustration of what condemnation is all about. In spite of appearing in a section called "Protection of Private Property Rights," the subsection provides no protection other than that already provided by the Fifth and Fourteenth Amendments. It certainly does not protect against condemnation.

No one can claim, in good faith, that this bill does not authorize condemnation of property in view of the language of Section 11 (a).

B. The bill does not prevent Federal agencies from extending the impact of their regulations beyond land actually acquired

Subsection (b) of Section 11 purporting to protect private property rights provides that "Federal agencies, using funds appropriated under this Act, may not apply any regulation on any lands until the lands or water, or an interest therein, is acquired, unless authorized to do so by another Act of Congress." What an intriguing attempt to assure a scanner of the bill that Federal regulation cannot be extended to private property. But, the last clause of the subsection makes one aware of the deceit.

Most of the Acts of Congress extending management of Federal lands to the Federal agencies contain language which authorizes the agency management to take actions necessary to protect the Federal lands. So, Section 11(b) does not protect against the exercise of such protective authority. Courts have made it clear that under protective provisions of such acts of Congress, the Federal agencies have the power to control land use of private property which adjoins Federal lands. In Camfield v. United States, 167 U.S. 518, the U.S. Supreme Court confirmed the power of the Federal Government to abate fences on adjoining land. In United States v. Lindsey, 595 F.2d 5 (9th Cir. 1979), the Ninth Circuit Court of Appeals recognized the power of the Federal Government to punish persons who built a campfire on non-Federal land adjacent to a national recreation area. In United States v. Arbo, 691 F.2d 862 (9th Cir. 1982) the same Court ruled that a person could be charged with interference with a Federal Forest Service officer even when the interfering action took place on non-Federal property which was adjacent to Federal property. In Free Enterprise Canoe Renter Association v. Watt, 549 F. Supp. 252 (E.D. Mo. 1982) the Federal court held that the National Park Service could prohibit the use of State roads for canoe pickups within a Federal Scenic Riverway.

Thus, the last clause of Section 11(b) makes it clear that this section changes nothing in current law, and extends no protection to private property rights which do not already exist under the Constitution. With or without the clause, the Federal agencies can impact any private property adjoining Federal lands by extension of their regulations. With or without the clause, the Federal agencies can extend their regulatory authority to hunters, campers and fishermen even when they are on private or State property.

Neither does Section 11(b) protect against the expansion of regulations regarding protection of species. We have already seen that the courts have allowed the agencies to extend their regulatory protections of species to private property. Now, under this bill there will be money authorized to States to extend species protection and to enter into cooperative management agreements with the Federal agencies in order to implement the species protection plans which are developed. This provides a means of expanding Federal regulations, established pursuant to the Endangered Species Act, through such cooperative management plans even though the Federal Government has acquired no interest in the land covered by the plans.

So, the "protection of private property rights" set forth in Section 11 offers no protection against condemnation, no protection against expansion of Federal regulations, no protection which does not already exist under the United States Constitution.

C. The claim that land will be acquired only from "willing sellers" is inconsistent with the specific terms of the bill

The main sponsor of the bill in the House has defended the bill by claiming that all land purchases will be only from "willing sellers." He thus chides private property advocates for opposing the bill, saying that such advocates should support the opportunity for "willing sellers" to dispose of their land.

Apparently the claim is based upon Section 205 which contains the "Willing Seller Requirement." The very title would lead one to believe that in fact no acquisition could be made other than from a "willing seller." But, the language of the section belies the title.

The first two clauses of the section would seem to be consistent with the title: "The Federal portion may not be used to acquire any property unless (A) the owner of the property concurs in the acquisition." Accept for a moment that this statement defines a "willing seller." It really does not, but for our initial purpose accept that it does. One would read this as fulfilling the "Willing Seller Requirement." But, the next clause of the Section states: "or (B) acquisition of that property is specifically approved by an Act of Congress." So much for the "requirement" that there be a "willing seller." The Section is written in the alternative: Federal acquisitions must be from a concurring owner OR under approval by an Act of Congress. So, if Congress approves an acquisition, it matters not whether the owner concurs.

In touting this bill why would anyone contend that all acquisitions had to be made from a "willing seller" when the language of the bill is to the contrary. There is only one logical explanation: the claim is made to try to thwart the impact of the opposition from private property advocates by misleading those who have not studied the actual terms of the bill. Rep. Young made the statement that "Those who oppose this bill are going to get run over." But, those who study the actual language of this bill and compare it to Rep. Young's claims will clearly see that the claims are bogus.

Now that we have seen that the Federal acquisition can be made from an unwilling seller if Congress approves the sale, let us consider what that means. Some might say, "well, if Congress does specifically consider and approve an acquisition it will happen only after the people have received notice and an opportunity to express their opinions on the acquisition to their representatives." Not necessarily. How many projects were approved in the infamously complex appropriations bill for Fiscal 1999 without any specific advance notice? Has anyone in the public ever seen the thousands of pages of that appropriations bill put together? How many projects of various types have been approved by Congress as an amendment to a bill completely unrelated to the project? One that comes to mind is the Quincy Library Group bill related to central and northern California which was enacted as an amendment to an Indian land lease authorization relating to lands in the Dakotas. More recently, $2 million have reportedly been included in the Interior Department appropriations bill for the purchase of additional scenic easements in the Sawtooth Recreation Area in central Idaho. The projects have not been identified in that appropriation, but by allocating the money, Congress will have approved acquisition of the easements.

So, the provisions of Section 205 allow the agencies to push through acquisitions without the necessity of securing concurrence from the owner of the land. Why then title the Section "Willing Seller Requirement," and why claim that purchases will be made only from willing sellers, unless the purpose is to deceive those who might worry about private property rights being lost through forced purchases by the government.

One other consideration should be taken into account. The Section is based on the premise that an owner who "concurs" in the acquisition is "willing." In a condemnation case, where "fair market value" must be determined as a standard for "just compensation", the question is not whether the seller "concurs", but whether under all the circumstances it can be found that the seller "wants" to sell. A land appraiser will tell you that market value is based upon the amount which would exchange between a knowledgeable and willing seller, who is under no compulsion to sell (no compulsion of any kind) and a willing buyer under no compulsion to buy. In finding whether a seller is "willing", the trier of fact must determine whether the seller was under compulsion of any kind and whether he wanted to sell, not merely whether he concurred with the sale.

So, the bill does not really define a "willing seller" as that term is traditionally used in the real estate market and in courts which determine condemnation cases. It calls any seller who says "ok" to the acquisition a "willing" seller, even if he says "ok" after being told that all the land adjoining his is going to be acquired in a manner which will severely restrict the use and value of his land. Those who have studied the growth of conservation and scenic easements in this country are familiar with the scenario in which an owner sells in desperation because of the threats of regulatory restrictions which will otherwise be placed on his property.

In short, the bill does not require that all acquisitions by the Federal Government be from a "willing seller."

D. Protections, such as they are, do not specifically extend to State government acquisitions

The "willing seller" restriction, such as it is, is applicable only to Federal acquisitions. This means that an acquisition made by a State or local government which receives funds is not bound by even the color of an attempt to restrict condemnation. The supporters may say that Congress has no such right. Wrong. The bill could restrict the funding of States and local governments to only those instances in which the State or local government agreed that land acquisitions would be made only from a true "willing seller" and that condemnation would not be used.

The same is true for the language that seems to attempt to restrict the Federal regulatory authority. Funding to States and local governments could be limited to those cases in which States and local governments would agree that their regulations would note be extended to any lands until they were actually acquired from a true "willing seller."

Given the provisions that call for joint and cooperative management plans, it would make sense to extend these protections of private property to the State and local government use of funds, IF the bill really were intended to protect private property rights.

E. Water rights are not adequately protected

Section 210 is entitled "Water Rights," but it does not contain the language that would most assuredly protect vested water rights: "nothing in this Act shall effect any existing water right." Throughout history, Congress has used language to that effect when it intended to protect already existing and vested water rights. Not so in this bill.

The language of 210 rather talks in terms of State and Federal relationships regarding water. Nothing in the section pertains to protecting existing private water rights.

Neither is there specific language which states a Congressional intent that there be no implication of reservation of water for any purpose stated in the Act. It would be very simple to insert specific language that there was no reservation intended: "Nothing in this Act is intended to reserve water, or impliedly reserve water, for use of any projects or acquisitions funded by this Act." It would be simple, if it really were the intent of the sponsors to protect private property rights.

II. THIS BILL THREATENS THE ECONOMIC STABILITY OF COUNTY GOVERNMENTS, AND THREATENS TO CUT VITAL LOCAL SERVICES FOR THE TAXPAYERS

In most States, the taxpayers are most directly served by local government. County governments furnish the seats of justice in the forms of lower and upper level trial courts, law enforcement and detention facilities, official recording of documents, road and highway maintenance, and the fiscal services necessary to collect and disburse taxes for various local taxing districts such as school districts, highway districts, ambulance districts, fire districts, library districts, and agricultural fair districts. The taxpayers are in fact served by county functions that are funded by ad valorem (property) taxes which are based on assessed valuation of private property within the county.

As the amount of private property is decreased in the county, the tax base of the county is decreased. The acquisitions of private property, which will be possible under the bill, threaten the very existence of many county governments, particularly in rural areas. When private property is purchased by a governmental entity, there will be no revenue payable to the county which will replace the loss of tax base.

This bill will accommodate land purchases that will dwarf the purchases made by the Forest Service in the Sawtooth Recreation Area in central Idaho. Yet, those purchases alone have devastated the tax base of Custer County in Idaho.

The enabling statute which created the Sawtooth National Recreation Area stated the clear intent of Congress that the Federal agency should purchase, in fee simple, no more than 5 percent of the private land in the proposed Recreation Area. In spite of that mandate, the Forest Service has purchased, in fee simple, 17 percent of the private land in the Area and are still buying. In fact, another $2 million have been included in the appropriation for next year for further purchases in the Area. This massive removal of private land from the tax base of slightly populated Custer County endangers continuation of county services.

In addition to the absolute removal of private property from the tax rolls, the purchase of scenic easements by the government further depletes the revenue of the County. The impact of the scenic easements is to prevent all development, even when the development would not detract at all from the visibility of the Scenic Area (which is the stated purpose for the easement purchases). As a result, the tax base

for all private properties covered by the scenic easements is permanently frozen at a much lower level than the tax base would be on developed property. This means that county revenue is cut. So is revenue for the school districts and all other local taxing and service districts. The assessor and a former assessor of the County provided an example: The owner of an 11.5 acre parcel sold a scenic easement to the Forest Service for $306,000. Neither the county nor any taxing district received any revenue benefit from that sale. The sale prevented development of three residences that could have been constructed without effecting in any way visibility of the Scenic Area. The former assessor estimates that the three lots and buildings would have an assessed value of nearly $2 million. Based on that valuation, the school district alone would have received $14,571 each year in tax revenue from those lots. Without that development, the owner who sold the easement to the Forest Service pays only $5,296 in total property tax revenue, with only a portion of that going to the school district.

The adverse impact of the Federal Government's purchase of private land and of scenic easements, which decrease the valuation and prospective valuation of property, is obvious from this example. Custer County Idaho's experience is critical to that county, but it is miniscule compared to the adverse impact on counties throughout the Nation which will result from the massive land acquisitions to be funded by H.R. 701. Federal agencies will push their agenda to further decrease private property that is more difficult for them to control. In the Sawtooth National Recreation Area, the Forest Service did not deem itself bound by Congressional limitations on the amount of private property which could be purchased. Congress said, "buy no more than 5 percent of the private land." The Forest Service has already bought 17 percent of the private land and still spending. So, even the slight limitations placed on the agencies in H.R. 701 will be meaningless to the agencies. Armed with the almost unlimited discretion given to the Secretary of Interior throughout this bill, the agencies will be in a position to make the biggest grab of private land in history.

III. THE BILL PAVES THE WAY FOR CREATION OF STATE PROTECTION OF SPECIES EVEN BROADER THAN THE FEDERAL ENDANGERED SPECIES ACT

Through the Wildlife Conservation and Restoration Program, the bill provides for State programs of species protection that is far broader than the protection which has lead to destruction of private property rights under the Endangered Species Act (ESA). Section 302 (d) defines the "conservation" use to which funding may be put by the States as including "use of means and procedures necessary or desirable to sustain healthy populations of wildlife including all activities associated with scientific resources management such as . . . . acquisition, improvement and management of habitat . . . and periodic or total protection of a species or population."

This language is all-inclusive. It does not pertain merely to endangered or threatened species as now recognized by the ESA. It applies to all "wildlife" which would include even non-sport (hunting and fishing) species. The breadth of this provision is awesome. It extends to the States the funding to create species bills that the Federal Government can't reach. That will allow the Federal Government, through cooperative management plans called for by the bill, to extend its regulations of use of land to any species related to any State program funded under this bill.

The same section provides that such State programs must be "approved by the Secretary," so the Federal Government can insist on the broadest possible restrictions on species by the State in order to gain funding. Section 304 provides that in order to gain the Secretary's approval, the State must submit a "comprehensive plan" which provides that the State Fish and Game Department will have overall responsibility for the program. By this provision, the Federal Government can dictate to the State seeking funds as to which department of government must run the program. The comprehensive plan must also provide that this agency will develop and implement wildlife conservation programs, giving "appropriate consideration to all wildlife."

This bill has been touted by its supporters as a boon for hunters and fishermen. Various sporting organizations have supported the bill in reliance upon these claims. But, if they read the bill they will see how the Federal Government can use the funding to gain control over the State species protection programs. Once that happens, is there anyone on the scene today who does not see that restriction of access is next on the agenda. The Federal agencies have launched a massive effort to restrict access during the past 18 months. This bill permits the expansion of that effort to any land acquired by the State for its wildlife programs.

Those who have fought re-authorization of the Endangered Species Act, those who have rallied against the abuses of private property and the closing of access under

the Endangered Species Act, should take note that under this bill the Congress will be setting up the Federal agencies to take a position as commissar of a vast extension of authority and control which can restrict private property rights and access under the guise of protection of a whole new body of species which it cannot touch under the ESA.

IV. THE BILL AUTHORIZES FUNDING TO NON-GOVERNMENT ORGANIZATIONS OF THE TYPE WHICH HAVE FOUGHT PRIVATE PROPERTY RIGHTS AND OPEN ACCESS

Section 704 of the bill authorizes the funding of conservation easement purchases by non-government organizations that qualify as a non-profit, tax exempt organization. This allows the Secretary to fund project purchases by the extremist environmentalist organizations which have fought to overcome private property rights and to deny access to Federal lands through the past two decades.

These same groups have filed lawsuit after lawsuit against the government, costing advocates of private property rights millions of dollars in attorneys fees to defend property rights and to seek and defend open access to Federal lands. Now, the Federal Government will fund their efforts. They can receive funds to use in purchasing conservation easements that will extend the domain which they can control. Then, they will be free to use their own revenue to continue to battle private property rights and open access through their debilitating litigation strategy. With the Federal funding, they can acquire control over even more land, which they can close down to multiple uses including hunting, fishing and motorized recreation uses.

Meanwhile, the taxpayers who have to defend their rights will be paying the costs of the extremists through tax dollars. It is remarkable to see that Members of the Congress who profess to be advocates of private property would actually consider such funding of organizations dedicated to the destruction of private property rights.

V. THE EXPENDITURES TO IMPLEMENT THIS BILL WILL ATTACK THE 'SURPLUS' AND THREATEN IMPORTANT PROGRAMS

Some conservative Members of the Congress have warned that the bill will deplete the "surplus" which is critical to various trust type programs. One of those, which has not been mentioned widely, is social security. The chief sponsor has proclaimed widely that he is a friend of the senior citizens and he managed to get the support of a national organization representing seniors. But one wonders what will happen to those Members of Congress who support this bill, when the grassroots seniors realize that this bill will in fact deplete the surplus. That means that all programs reliant on that surplus must compete for a smaller amount of money. Social security will be pitted against military appropriations and other appropriations critical to our nation's safety and health.

Sooner or later the seniors in the country will realize that the bill provides a threat to the funds available to support long-time health of the social security program. Then, we will see the impact that can be made by the grassroots.

VI. MASSIVE DECREASES IN PRIVATE PROPERTY ENDANGER THE PHILOSOPHICAL BASIS UPON WHICH THIS NATION WAS FOUNDED

It is not necessary, surely, to set forth the factors that evidence the importance of private property ownership to the Founders of this nation and to the philosophy of republican government that they documented in the Constitution. Neither should it be necessary to set forth the factors which evidence the importance to our enemies of destroying the independence of our citizens which results from ownership of property. In the Communist Manifesto, Marx warned the non-communist world: "In one word you reproach us with intending to do away with your property. Precisely so; that is just what we intend."

The Federal Government currently owns at least 30 percent of all land in the United States. In the western States, the government owns more than two-thirds of the land. Now, H.R. 701 authorizes vast increases in this ownership, and with each increase we lose more private property. We lose more of the resource that has always afforded us the basis for independence.

Last year the Congress identified $15 billion needed for backlogged maintenance of the federally owned lands. This government cannot even afford to maintain the land already owned. Why does the government need more land—when it cannot maintain and care for that already owned? There is only one logical answer: the more land owned by the Federal Government, or by State governments entangled through cooperative management agreements with the Federal Government, the more power the Federal Government has over local land use decisions and over the operation of local governments themselves. Marx would be pleased.

Fred Kelly Grant is a native of Nampa, Idaho. He attained his B.A. from the College of Idaho in 1958, majoring in History; with specialization in Constitutional History and Law. He then attended the University of Chicago School of Law. He served as Law Clerk to Chief Judge Brune, in the Maryland Court of Appeals.

He first worked as an associate at Lord, Bissell, and Brook; a Chicago law firm representing Lloyd's of London. He continued to practice law in the District of Maryland, where he was an Assistant United States Attorney. He later became Assistant State Attorney of Baltimore, and then Chief of the Organized Crime Unit, State's Attorney of Baltimore. He spent his remaining time in Baltimore involved in criminal defense.

Grant has since returned to Idaho where he is an expert on land use issues. He is the owner of Fred Kelly Grant Ltd., providing consulting services in personnel and land use, and legal research. He is also consultant to Owyhee County Land Use Planning Committee and to the Board of County Commissioners regarding Land Use Planning for the federally managed lands in the county. Grant has also been a consultant to Stewards of the Range since 1997.

Liberty Matters, American Land Foundation and Stewards of the Range are national property rights organizations whose members would be directly affected by the Conservation and Reinvestment Act of 1999.

Reprint permission is granted in whole or in part with attribution to Liberty Matters, Stewards of the Range, and American Land Foundation.

WESTERN STATES LAND COMMISSIONERS ASSOCIATION,
Helena, MT, May 24, 2000.

The Honorable ROBERT SMITH
Senate Environment and Public Works,
Dirksen Senate Office Building,
Washington, DC 20510.

DEAR SENATOR SMITH: This letter is written for consideration by the Senate Committee on Environment and Public Works at upcoming hearings regarding the Conservation and Reinvestment Act (H.R. 701).

The Western States Land Commissioners Association (WSLCA) consists of 23 States, which together manage 447 million acres of land, mineral right properties and land beneath navigable waterways. Although the management structure varies between the member States, the mandate to manage the State trust resources for current and future beneficiaries is the same. Actions and decisions made by Congress and Federal Land Management agencies often have direct impacts and influence expectations for the management of State trust lands. As such, the WSLCA has closely followed the Conservation and Reinvestment Act over the past several months.

The WSLCA has generally supported the concept of providing adequate financial resources to deal with natural resource management needs. The WSLCA is particularly interested in the use of Land and Water Conservation Funds to resolve long-standing inholding issues through exchanges and other means that would be highly beneficial to the respective States and Federal land management agencies. The WSLCA passed the attached resolution regarding the Conservation and Reinvestment Act at its annual winter meeting this past January and would like that resolution to be considered as part of the record of comments received by the Senate Committee on Environment and Public Works.

Thank you for this opportunity to comment on H.R. 701.

Sincerely,

M. JEFF HAGENER, *President.*

RESOLUTION—2000–1

A RESOLUTION REGARDING THE CONSERVATION AND REINVESTMENT ACT OF 1999, AND RECURRING FUNDING FOR THE LAND AND WATER CONSERVATION FUND

WHEREAS, Congress established the Land and Water Conservation Fund Act, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act as means of investing in the environment and our communities; and

WHEREAS, the challenges of maintaining and preserving that which makes the Western States unique, including the conservation of wildlife habitat and outdoor recreational opportunities, is becoming increasingly difficult; and

WHEREAS, human demands are increasing, whether they are for recreational pursuits, economic benefit, community bonding or caring for the environment; and

WHEREAS, many of those demands have direct consequence on the ability of the State land trusts to fulfill their respective mandates; and

WHEREAS, Congress is considering the Conservation and Reinvestment Act of 1999 which will serve as a means of funding the Land and Water Conservation Fund which would provide a means of purchasing easements and inholdings, and facilitating exchanges to resolve trust valuation issues; and

WHEREAS, the Conservation and Reinvestment Act would provide for funding of other programs that are important to enhancing the quality of life in our communities and the States by sharing Federal offshore mineral leasing revenues with the States; and

WHEREAS, the Congressional Acts supported by the Conservation and Reinvestment Act emphasize the need to conserve public spaces and to acquire national, State and local natural areas in anticipation of increasing population to respond to rapid changes in land use and availability; and

WHEREAS, the Western States have in the past benefited immensely from the acquisition and development of neighborhood parks, open space, wildlife habitat, baseball parks, soccer fields, picnic areas, bike trails, playgrounds, scenic areas, and the preservation of cultural sites; and

WHEREAS, investments from the fund can be used for acquisition or conservation easements to secure areas that can contribute significantly to the conservation of habitat and provide for recreational opportunities for the citizens of the United States; and

WHEREAS, investments of these types serve as economic catalysts that can benefit both the environment and community,

NOW, THEREFORE, BE IT RESOLVED, that the Western States Land Commissioners Association encourages its members to urge Congress to ensure passage of the Conservation and Reinvestment Act and that future recurring Land and Water Conservation Fund appropriations occur at the authorized level.

Approved this 14th day of January, 2000.

JEFF HAGENER, *President.*

KEVIN S. CARTER, *Secretary.*

○